NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

SUPPLEMENTAL TO THESIS
(1 of 1: COURT CASES)

THE ULTRA-MARATHONERS OF HUMAN SMUGGLING: DEFENDING FORWARD AGAINST DARK NETWORKS THAT CAN TRANSPORT TERRORISTS ACROSS AMERICAN LAND BORDERS

by

Todd Bensman

September 2015

Thesis Advisor:	Rodrigo Nieto-Gomez
Second Reader:	Carolyn Halladay

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

Sworn in on June 11, 2001

UNITED STATES OF AMERICA	**CRIM. NO.: 01-465**
v.	**GRAND JURY ORIGINAL**
ASHRAF AHMED ABDALLAH, **a/k/a Ashraf Mohammed Abdallah,** **a/k/a Mohammed Ashraf Albaz,** **a/k/a Juan Manuel,**	**VIOLATIONS:**
Defendant.	**8 U.S.C. § 1324(a)(1)(A)(i), (a)(1)(A)(iv), (a)(1)(A)(v)(I), and (a)(1)(B)(i)** **(Conspiracy to Commit Alien Smuggling)** **8 U.S.C. § 1324(a)(2) and (a)(2)(B)(ii)** **(Attempted Bringing of Unauthorized Aliens for Financial Gain)** **18 U.S.C. § 2** **(Aiding and Abetting)**

DEC 21 2001

INDICTMENT

The Grand Jury charges that:

COUNT ONE

General Allegations

At all times relevant to this Indictment:

1. The defendant, **ASHRAF AHMED ABDALLAH**, also known as Ashraf Mohammed Abdallah, also known as Mohammed Ashraf Albaz, also known as Juan Manuel, and often called simply "Ashraf", was a citizen of Egypt residing in or near Guatemala City, Guatemala, and with no known residence in the United States.

2. The defendant **ASHRAF AHMED ABDALLAH** was engaged in the business of smuggling aliens, including particularly citizens of Egypt and its neighboring countries, into the United States for commercial advantage and private financial gain.

3. The community of Bata was located in Bahna, in the province of Qalubiya, in Egypt.

4. An associate of the defendant **ASHRAF AHMED ABDALLAH**, referred to herein as "the Bata recruiter", operated in the vicinity of Bata as a recruiter of aliens to be smuggled by the defendant.

5. An associate of the defendant **ASHRAF AHMED ABDALLAH**, referred to herein as "D", served as a recruiter in Nicaragua for the defendant.

6. An associate of the defendant **ASHRAF AHMED ABDALLAH**, referred to herein as "A", coordinated the transportation of aliens from Guatemala into Mexico for the defendant.

7. An associate of the defendant **ASHRAF AHMED ABDALLAH**, referred to herein as "N", coordinated the transportation and lodging of aliens within Mexico for the defendant.

8. An associate of the defendant **ASHRAF AHMED ABDALLAH**, referred to herein as "M", coordinated the transportation and lodging of aliens within Mexico for the defendant.

9. A.Z.B., whose identity is known to the Grand Jury, was and is a citizen of Egypt, from the community of Bata, who sought to come into the United States illegally.

10. S.A., whose identity is known to the Grand Jury, was and is a citizen of Egypt, from the community of Bata, who sought to come into the United States illegally.

11. H.R., whose identity is known to the Grand Jury, was and is a citizen of Egypt, from the community of Bata, who sought to come into the United States illegally.

12. M.H., whose identity is known to the Grand Jury, was and is a citizen of Jordan who sought to come into the United States illegally.

13. A "stash house" was and is a location used by smugglers to lodge aliens while waiting to be transported further on a smuggling route, the true nature and purpose of which location was typically not publicly disclosed.

The Conspiracy

14. From in or about June 2001 through in or about October 2001, in Guatemala, Egypt, Mexico, and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendant **ASHRAF AHMED ABDALLAH** knowingly and unlawfully did combine, conspire, confederate, and agree with other persons, both known and unknown to the Grand Jury, knowingly to:

(A) bring and attempt to bring one or more aliens to the United States at a place other than a designated port of entry and at a place other than as designated by the Commissioner of the United States Immigration and Naturalization Service, in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(i) and (a)(1)(B)(i); and

(B) for the purpose of commercial advantage and private financial gain, encourage and induce one or more aliens to come to, enter, and reside in the United States, knowing and in reckless disregard of the fact that such coming to, entry, and residence would be in violation of law, in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(iv) and (a)(1)(B)(i).

Object of the Conspiracy

15. The object of the conspiracy was to make money by smuggling a group of aliens – which came to include A.Z.B., S.A., H.R., and M.H. – into the United States.

Manner and Means of the Conspiracy

16. It was part of the conspiracy that the defendant **ASHRAF AHMED ABDALLAH** and his coconspirators would and did recruit aliens, in the town of Bata, Egypt, and elsewhere, to be taken to the United States in exchange for the payment, or promised payment, of money.

17. It was a further part of the conspiracy that the defendant **ASHRAF AHMED ABDALLAH** and his coconspirators would and did make it known that aliens from Egypt and elsewhere should travel to Brazil, Nicaragua, Costa Rica, and other countries in Latin America, and from there travel to Guatemala to meet with the defendant **ASHRAF AHMED ABDALLAH** and, in exchange for payments to the defendant and his associates, be smuggled through Mexico into the United States.

18. It was a further part of the conspiracy that the defendant **ASHRAF AHMED ABDALLAH's** associate, the Bata recruiter, would and did instruct aliens from Egypt on how totravel to Guatemala and how to contact the defendant **ASHRAF AHMED ABDALLAH** for the purpose of being smuggled into the United States.

19. It was a further part of the conspiracy that the defendant **ASHRAF AHMED ABDALLAH** would and did conduct his alien smuggling business through the use of a loose network of associates, with whom he shared the money obtained through their alien smuggling

activities: the makeup of the group of associates who participated in smuggling any particular group of aliens depended upon the manner in which the aliens were recruited and the route used to transport them to the United States.

20. It was a further part of the conspiracy that the defendant **ASHRAF AHMED ABDALLAH** would and did collect money from aliens and their families.

21. It was a further part of the conspiracy that the defendant **ASHRAF AHMED ABDALLAH** would and did demand to be paid in cash or by wire transfers of funds.

22. It was a further part of the conspiracy that to protect himself and his activities the defendant **ASHRAF AHMED ABDALLAH** would and did instruct that payments sent to him by wire transfer be addressed in names other than his own.

23. It was a further part of the conspiracy that the defendant **ASHRAF AHMED ABDALLAH** would and did collect from aliens their passports, ostensibly as a security precaution, but also as a guarantee that he would receive his final payment from the aliens after they arrived in the United States.

24. It was a further part of the conspiracy that the defendant **ASHRAF AHMED ABDALLAH** would and did instruct aliens on how to avoid being apprehended as they traveled to the United States, and, if apprehended, how to avoid being expelled from Mexico.

25. It was a further part of the conspiracy that the defendant **ASHRAF AHMED ABDALLAH** and his coconspirators would and did assemble a group of aliens on or about August 21, 2001, for transportation from Guatemala through Mexico for illegal entry into the United States.

26. It was a further part of the conspiracy that the defendant **ASHRAF AHMED ABDALLAH** and his coconspirators would and did take steps to conceal and maintain the secrecy of their alien smuggling activities to protect themselves from prosecution and to permit them to continue to engage in alien smuggling.

Overt Acts

27. In furtherance of the conspiracy, and to effect the object of the conspiracy, the defendant **ASHRAF AHMED ABDALLAH** and one or more of his coconspirators committed the following overt acts, among others:

1) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** used the name Juan Manuel.

2) On or about August 21, 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** drove to a location from which A.Z.B., S.A., H.R., M.H., and other aliens were being assembled for transportation into Mexico.

Overt Acts Particularly Related to A.Z.B.

3) In or about August 2001, the Bata recruiter gave the defendant **ASHRAF AHMED ABDALLAH**'s phone number to the family of A.Z.B.

4) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** met with A.Z.B.

5) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** demanded money from A.Z.B. in exchange for smuggling A.Z.B. into the United States.

6) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** obtained an initial payment of $3,000 cash from A.Z.B.

7) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** directed that A.Z.B. be transported to a stash house.

8) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** told A.Z.B. that A.Z.B. would be smuggled into the United States through Mexico.

9) On or about August 21, 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** obtained A.Z.B.'s passport from A.Z.B.

10) On or about August 21, 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** drove A.Z.B. to a location from which A.Z.B. and other aliens were being gathered for transportation into Mexico.

11) In or about mid-September, 2001, the defendant **ASHRAF AHMED ABDALLAH** spoke by telephone with A.Z.B., who was in Mexico at a stash house operated by "N".

Overt Acts Particularly Related to S.A.

12) In or about June 2001, the defendant **ASHRAF AHMED ABDALLAH** spoke by telephone with S.A., who was in Brazil.

13) In or about June-July 2001, in Nicaragua, "D" met with S.A.

14) In or about June-July 2001, the defendant **ASHRAF AHMED ABDALLAH** spoke by telephone with S.A., who was in Nicaragua.

15) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** met with S.A.

16) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** demanded money from S.A. in exchange for smuggling S.A. into the United States.

17) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** obtained an initial payment of $4,000 from S.A.'s family by wire transfer.

18) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** told S.A. that S.A. would be smuggled into the United States through Mexico.

19) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** obtained S.A.'s passport from S.A.

Overt Acts Particularly Related to H.R.

20) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** met with H.R.

21) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** demanded money from H.R. in exchange for smuggling H.R. into the United States.

22) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** obtained an initial payment of $2,500 cash from H.R.

23) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** told H.R. that H.R. would be smuggled into the United States through Mexico.

24) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** took H.R. to a stash house.

25) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** instructed H.R. to send money to the defendant by wire transfer addressed in the name of another person, after H.R. had arrived in the United States.

26) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** obtained H.R.'s passport from H.R.

Overt Acts Particularly Related to M.H.

27) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** met with M.H.

28) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** demanded money from M.H. in exchange for smuggling M.H. into the United States.

29) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** took M.H. to a stash house.

30) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** received an initial payment of $2,000 cash from M.H.'s family, by wire transfer addressed in the name of another person.

31) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** told M.H. that M.H. would be smuggled into the United States through Mexico.

32) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** instructed M.H. to send money to the defendant by wire-transfer in the name of another person, after M.H. had arrived in the United States.

33) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** obtained M.H.'s passport from M.H.

(Conspiracy to Smuggle Aliens To the United States at a Place Other Than a Designated Port of Entry, and, for Financial Gain, to Induce Aliens to Come to the United States, in violation of Title 8, United States Code, Sections 1324 (a)(1)(A)(i), (a)(1)(A)(iv), (a)(1)(A)(v)(I), and (a)(1)(B)(i)).

COUNTS TWO THROUGH FIVE

1. The Grand Jury realleges and incorporates by reference paragraphs 1 through 13 of COUNT ONE of this Indictment.

2. Beginning in or about the following dates and continuing until in or about October 2001, in Guatemala, Mexico, Egypt, and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendant **ASHRAF AHMED ABDALLAH** and others known and unknown to the Grand Jury, knowingly did attempt to bring to the United States the following aliens, for the purpose of commercial advantage and private financial gain, and knowing and in reckless disregard of the fact that such aliens had not received prior authorization to come to, enter, and reside in the United States:

COUNT	ALIEN	BEGINNING DATE
2	A.Z.B.	AUGUST 2001
3	S.A.	JUNE 2001
4	H.R.	AUGUST 2001
5	M.H.	AUGUST 2001

(**Attempted Bringing of Unauthorized Aliens for Financial Gain**, in violation of Title 8, United States Code, Sections 1324 (a)(2), (a)(2)(B)(ii), and **Aiding and Abetting**, in violation of Title 18, United States Code, Section 2.)

A TRUE BILL

FOREPERSON

Roscoe C. Howard, Jr. /

Attorney for the United States
in and for the District of Columbia

Laura A. Ingersoll
Assistant United States Attorney
Transnational/Major Crimes Section

John W. Scott
Sr. Trial Attorney, Alien Smuggling Task Force
Criminal Division
United States Department of Justice

U.S. Department of Justice

Kenneth L. Wainstein
United States Attorney

District of Columbia

Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530

BY FACSIMILE

March 22, 2006

FILED
APR 2
NANCY MAYER-WHITTINGTON
U.S. DISTRICT COURT

A. Eduardo Balarezo, Esq.
400 5th Street, N.W., #300
Washington, D.C. 20530

Re: United States v. Bashar, 01-465 (RMU)

Dear Mr. Balarezo:

This letter confirms the agreement between your client, Ashraf Ahmed Abdallah Bashar, and the Office of the United States Attorney for the District of Columbia (hereinafter also referred to as "the Government" or "this Office"). If your client accepts the terms and conditions of this offer, please have your client execute this document in the space provided below. Upon receipt of the executed document, this letter will become the plea agreement. The terms of the offer are as follows:

Mr. Bashar's Obligations, Acknowledgments and Waivers: AEB A-B/A

1. Your client, Ashraf Ahmed Abdallah Bashar, agrees to admit guilt and enter a plea of guilty to counts one and two in a ~~pending~~ superseding indictment, in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(i), (a)(1)(A)(iv), (a)(1)(A)(v)(I), (a)(1)(B)(i) and (a)(2)(B)(ii). Your client understands that pursuant to Title 8, United States Code, Section 1324(a)(1)(B), count one carries the following penalties: a term of incarceration of up to ten years, a fine of up to $250,000, and a term of supervised release of up to three years. Your client understands further that pursuant to Title 8, United States Code, Section 1324(a)(2)(B), count two carries the following penalties: a term of incarceration of up to ten years and a minimum of three years, a fine of up to $250,000, and a period of supervised release of up to three years. In addition, your client agrees to pay a special assessment of $100 per felony conviction to the Clerk of the United States District Court for the District of Columbia prior to the date of sentencing. Your client further understands that if the Court rejects the parties' recommendation for an appropriate sentence as set forth in paragraph three, and your client does not withdraw his plea, your client will be sentenced according to Title 18, United States Code, Sections 3553(a) and 3553(c) through (f), upon consideration of the United States Sentencing Guidelines Manual ("Sentencing Guidelines"), which will apply to determine your client's guideline range. Your client also understands that pursuant to Title 18, United States Code, Section 3571 and

Section 5E1.2 of the Sentencing Guidelines, the Court may also impose a fine that is sufficient to pay the federal government the costs of any imprisonment, term of supervised release and period of probation.

2. Your client agrees and will acknowledge at the time of the plea of guilty to the criminal charges stated above that, pursuant to Section 2L1.1(b)(2)(C), the offenses involved smuggling 100 or more aliens. Your client further agrees and will acknowledge that pursuant to Section 3B1.1(a), your client was an organizer or leader of the criminal activity.

3. Your client and the Government agree that a sentence of forty-eight months, each count, to be served concurrently, is the appropriate sentence for the offenses to which your client is pleading guilty. The Government also agrees, pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, to present this plea agreement between the parties to the Court for its approval. If the Court accepts the plea agreement and the specific sentence agreed upon by the parties, then the Court will embody in the judgment and sentence the disposition provided for in this plea agreement, pursuant to Rule 11(c)(4) of the Federal Rules of Criminal Procedure. The parties understand, however, that in light of other factors the Court may not agree that such a sentence is an appropriate one and may reject the plea agreement pursuant to Rule 11(c)(5)(B) of the Federal Rules of Criminal Procedure. Your client understands that if this happens, the Court, in accordance with the requirements of Rule 11(c)(5)(B), will inform the parties of its rejection of the plea agreement, and will afford your client an opportunity to withdraw the plea, or if your client persists in the guilty plea will inform your client that a final disposition may be less favorable to your client than that contemplated by this agreement. This agreement with respect to the appropriate sentence effects only incarceration. The otherwise applicable statutory and Guideline provisions are applicable to other sentencing incidents, specifically fines and terms of supervised release.

AB

AB-A

ABA

4. Should the Court not agree that the sentence agreed upon by the parties is appropriate, and your client not withdraw his plea, your client and the Government agree to the following. Your client will be sentenced upon consideration of the United States Sentencing Guidelines. The Government agrees that it will not seek any additional increases in your client's base offense level other than the increase set forth in paragraph two. The Government further agrees that it will not seek an upward departure from the otherwise applicable guideline range established by the Sentencing Guidelines Your client understands and acknowledges that the terms of this paragraph apply only to conduct that occurred prior to the execution of this agreement. Should your client commit any conduct after the date of this agreement that would form the basis for an increase in your client's base offense level or justify an upward departure (examples of which include, but are not limited to, obstruction of justice, failure to appear for a court proceeding, criminal conduct while pending sentencing, and false statements to law enforcement agents, the probation officer or Court), the Government is free under this agreement to seek an increase in the base offense level based on that post-agreement conduct.

5. Your client agrees not to object to the Government's recommendation to the Court at the time of the plea of guilty in this case that, pursuant to Title 18, United States Code, Section 3143, your client be detained without bond pending your client's sentencing in this case.

6. In entering this plea of guilty, your client understands and agrees to waive certain rights afforded to your client by the Constitution of the United States and/or by statute, including: the right against self-incrimination with respect to the offenses to which your client is pleading guilty; the right to be tried by a jury, or by a judge sitting without a jury; the right to be assisted by an attorney at trial; and the right to confront and cross-examine witnesses. Your client further agrees that the District Judge should make any Sentencing Guidelines determinations.

7. Your client understands should the Court not accept the recommended sentence of forty-eight months and your client not withdraw his plea, sentence in this case will be imposed in accordance with Title 18, United States Code, Sections 3553(a) and 3553(c) through (f), upon consideration of the United States Sentencing Commission's Guidelines Manual. Your client further understands that in that case, the sentence to be imposed is a matter solely within the discretion of the Court. Your client acknowledges that the Court is not obligated to follow any recommendation of the Government at the time of sentencing.

8. Your client understands that subject to the provisions of paragraph three of this agreement, this Office reserves its full right of allocution for purposes of sentencing in this matter. In particular, the United States reserves its right to recommend a specific period of incarceration and fine up to the maximum sentence of incarceration and fine allowable by law. In addition, if in this plea agreement the Government has agreed to recommend or refrain from recommending to the Court a particular resolution of any sentencing issue, the Government reserves its right to full allocution in any post-sentence litigation in order to defend the Court's ultimate decision on such issues. Your client further understands that the Government retains its full right of allocution in connection with any post-sentence motion which may be filed in this matter and/or any proceeding(s) before the Bureau of Prisons. In addition, your client acknowledges that the Government is not obligated and does not intend to file any downward departure sentencing motion under Section 5K1.1 of the Sentencing Guidelines, Title 18, United States Code, Section 3553(e), or any post-sentence downward departure motion in this case pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure.

THE GOVERNMENT'S OBLIGATIONS, ACKNOWLEDGMENTS AND WAIVERS:

9. This Office will request that the Court dismiss the remaining counts of the indictment in this case at the time of sentencing. Your client, however, agrees and acknowledges that the charges to be dismissed at the time of sentencing were based in fact.

10. If your client is sentenced upon consideration of the Sentencing Guidelines, rather than pursuant to paragraph three of this agreement, the following terms apply. The Government agrees that the base offense level for the crimes to which your client is pleading guilty should be decreased by three levels based upon your client's acceptance of responsibility and will file a motion with the Court, pursuant to Section 3E1.1, provided that your client cooperates and is truthful and candid during the pre-sentence investigation, and does not attempt to obstruct justice, deceive, withhold, or otherwise mislead any law enforcement agent, the Court, the Probation Office or the Government concerning any issue relevant to the imposition of sentence. Your client agrees not to seek any decreases in your client's base offense level other than those which are agreed to by the

IN THE UNITED STATES DISTRICT COURT
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Holding a Criminal Term

Sworn in on June 11, 2001

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2. The defendant **ASHRAF AHMED ABDALLAH** was engaged in the business of smuggling aliens, including particularly citizens of Egypt and its neighboring countries, into the United States for commercial advantage and private financial gain.

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(A) bring and attempt to bring one or more aliens to the United States at a place other than a designated port of entry and at a place other than as designated by the Commissioner of the United States Immigration and Naturalization Service, in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(i) and (a)(1)(B)(i); and

(B) for the purpose of commercial advantage and private financial gain, encourage and induce one or more aliens to come to, enter, and reside in the United States, knowing and in reckless disregard of the fact that such coming to, entry, and residence would be in violation of law, in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(iv) and (a)(1)(B)(i).

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15. The object of the conspiracy was to make money by smuggling a group of aliens – which came to include A.Z.B., S.A., H.R., and M.H. – into the United States.

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26. It was a further part of the conspiracy that the defendant **ASHRAF AHMED ABDALLAH** and his coconspirators would and did take steps to conceal and maintain the secrecy of their alien smuggling activities to protect themselves from prosecution and to permit them to continue to engage in alien smuggling.

Overt Acts

27. In furtherance of the conspiracy, and to effect the object of the conspiracy, the defendant **ASHRAF AHMED ABDALLAH** and one or more of his coconspirators committed the following overt acts, among others:

1) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** used the name Juan Manuel.

2) On or about August 21, 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** drove to a location from which A.Z.B., S.A., H.R., M.H., and other aliens were being assembled for transportation into Mexico.

Overt Acts Particularly Related to A.Z.B.

3) In or about August 2001, the Bata recruiter gave the defendant **ASHRAF AHMED ABDALLAH**'s phone number to the family of A.Z.B.

4) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** met with A.Z.B.

5) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** demanded money from A.Z.B. in exchange for smuggling A.Z.B. into the United States.

6) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** obtained an initial payment of $3,000 cash from A.Z.B.

7) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** directed that A.Z.B. be transported to a stash house.

8) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** told A.Z.B. that A.Z.B. would be smuggled into the United States through Mexico.

9) On or about August 21, 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** obtained A.Z.B.'s passport from A.Z.B.

10) On or about August 21, 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** drove A.Z.B. to a location from which A.Z.B. and other aliens were being gathered for transportation into Mexico.

11) In or about mid-September, 2001, the defendant **ASHRAF AHMED ABDALLAH** spoke by telephone with A.Z.B., who was in Mexico at a stash house operated by "N".

Overt Acts Particularly Related to S.A.

12) In or about June 2001, the defendant **ASHRAF AHMED ABDALLAH** spoke by telephone with S.A., who was in Brazil.

13) In or about June-July 2001, in Nicaragua, "D" met with S.A.

14) In or about June-July 2001, the defendant **ASHRAF AHMED ABDALLAH** spoke by telephone with S.A., who was in Nicaragua.

15) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** met with S.A.

16) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** demanded money from S.A. in exchange for smuggling S.A. into the United States.

17) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** obtained an initial payment of $4,000 from S.A.'s family by wire transfer.

18) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** told S.A. that S.A. would be smuggled into the United States through Mexico.

19) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** obtained S.A.'s passport from S.A.

Overt Acts Particularly Related to H.R.

20) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** met with H.R.

21) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** demanded money from H.R. in exchange for smuggling H.R. into the United States.

22) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** obtained an initial payment of $2,500 cash from H.R.

23) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** told H.R. that H.R. would be smuggled into the United States through Mexico.

24) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** took H.R. to a stash house.

25) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** instructed H.R. to send money to the defendant by wire transfer addressed in the name of another person, after H.R. had arrived in the United States.

26) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** obtained H.R.'s passport from H.R.

Overt Acts Particularly Related to M.H.

27) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** met with M.H.

28) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** demanded money from M.H. in exchange for smuggling M.H. into the United States.

29) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** took M.H. to a stash house.

30) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** received an initial payment of $2,000 cash from M.H.'s family, by wire transfer addressed in the name of another person.

31) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** told M.H. that M.H. would be smuggled into the United States through Mexico.

32) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** instructed M.H. to send money to the defendant by wire-transfer in the name of another person, after M.H. had arrived in the United States.

33) In or about August 2001, in Guatemala, the defendant **ASHRAF AHMED ABDALLAH** obtained M.H.'s passport from M.H.

(Conspiracy to Smuggle Aliens To the United States at a Place Other Than a Designated Port of Entry, and, for Financial Gain, to Induce Aliens to Come to the United States, in violation of Title 8, United States Code, Sections 1324 (a)(1)(A)(i), (a)(1)(A)(iv), (a)(1)(A)(v)(I), and (a)(1)(B)(i)).

COUNTS TWO THROUGH FIVE

1. The Grand Jury realleges and incorporates by reference paragraphs 1 through 13 of COUNT ONE of this Indictment.

2. Beginning in or about the following dates and continuing until in or about October 2001, in Guatemala, Mexico, Egypt, and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendant **ASHRAF AHMED ABDALLAH** and others known and unknown to the Grand Jury, knowingly did attempt to bring to the United States the following aliens, for the purpose of commercial advantage and private financial gain, and knowing and in reckless disregard of the fact that such aliens had not received prior authorization to come to, enter, and reside in the United States:

COUNT	ALIEN	BEGINNING DATE
2	A.Z.B.	AUGUST 2001
3	S.A.	JUNE 2001
4	H.R.	AUGUST 2001
5	M.H.	AUGUST 2001

(**Attempted Bringing of Unauthorized Aliens for Financial Gain**, in violation of Title 8, United States Code, Sections 1324 (a)(2), (a)(2)(B)(ii), and **Aiding and Abetting**, in violation of Title 18, United States Code, Section 2.)

A TRUE BILL

FOREPERSON

Roscoe C. Howard, Jr. / JB

Attorney for the United States
in and for the District of Columbia

Laura A. Ingersoll
Assistant United States Attorney
Transnational/Major Crimes Section

John W. Scott
Sr. Trial Attorney, Alien Smuggling Task Force
Criminal Division
United States Department of Justice

DEFENDANT'S ACCEPTANCE

I have read this plea agreement and have discussed it with my attorney, A. Eduardo Balarezo, Esq. I fully understand this agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this agreement fully. I am pleading guilty because I am in fact guilty of the offenses identified in paragraph one.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this plea agreement. I am satisfied with the legal services provided by my attorney in connection with this plea agreement and matters related to it.

Date: 4-28-06

ABDALLAH BASHAR

Ashraf Ahmed Abdallah Bashar
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read each of the pages constituting this plea agreement, reviewed them with my client, and discussed the provisions of the agreement with my client, fully. These pages accurately and completely sets forth the entire plea agreement. I concur in my client's desire to plead guilty as set forth in this agreement.

Date: 4/28/06

A. Eduardo Balarezo, Esq.
Attorney for the Defendant

U.S. Department of Justice

Kenneth L. Wainstein
United States Attorney

District of Columbia

Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530

BY FACSIMILE

March 22, 2006

FILED
APR 3
NANCY MAYER-WHITTINGTON
U.S. DISTRICT COURT

A. Eduardo Balarezo, Esq.
400 5th Street, N.W., #300
Washington, D.C. 20530

Re: United States v. Bashar, 01-465 (RMU)

Dear Mr. Balarezo:

This letter confirms the agreement between your client, Ashraf Ahmed Abdallah Bashar, and the Office of the United States Attorney for the District of Columbia (hereinafter also referred to as "the Government" or "this Office"). If your client accepts the terms and conditions of this offer, please have your client execute this document in the space provided below. Upon receipt of the executed document, this letter will become the plea agreement. The terms of the offer are as follows:

Mr. Bashar's Obligations, Acknowledgments and Waivers: AEB A-B/A

1. Your client, Ashraf Ahmed Abdallah Bashar, agrees to admit guilt and enter a plea of guilty to counts one and two in a ~~pending~~ indictment, in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(i), (a)(1)(A)(iv), (a)(1)(A)(v)(I), (a)(1)(B)(i) and (a)(2)(B)(ii). Your client understands that pursuant to Title 8, United States Code, Section 1324(a)(1)(B), count one carries the following penalties: a term of incarceration of up to ten years, a fine of up to $250,000, and a term of supervised release of up to three years. Your client understands further that pursuant to Title 8, United States Code, Section 1324(a)(2)(B), count two carries the following penalties: a term of incarceration of up to ten years and a minimum of three years, a fine of up to $250,000, and a period of supervised release of up to three years. In addition, your client agrees to pay a special assessment of $100 per felony conviction to the Clerk of the United States District Court for the District of Columbia prior to the date of sentencing. Your client further understands that if the Court rejects the parties' recommendation for an appropriate sentence as set forth in paragraph three, and your client does not withdraw his plea, your client will be sentenced according to Title 18, United States Code, Sections 3553(a) and 3553(c) through (f), upon consideration of the United States Sentencing Guidelines Manual ("Sentencing Guidelines"), which will apply to determine your client's guideline range. Your client also understands that pursuant to Title 18, United States Code, Section 3571 and

Section 5E1.2 of the Sentencing Guidelines, the Court may also impose a fine that is sufficient to pay the federal government the costs of any imprisonment, term of supervised release and period of probation.

2. Your client agrees and will acknowledge at the time of the plea of guilty to the criminal charges stated above that, pursuant to Section 2L1.1(b)(2)(C), the offenses involved smuggling 100 or more aliens. Your client further agrees and will acknowledge that pursuant to Section 3B1.1(a), your client was an organizer or leader of the criminal activity.

3. Your client and the Government agree that a sentence of forty-eight months, each count, to be served concurrently, is the appropriate sentence for the offenses to which your client is pleading guilty. The Government also agrees, pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, to present this plea agreement between the parties to the Court for its approval. If the Court accepts the plea agreement and the specific sentence agreed upon by the parties, then the Court will embody in the judgment and sentence the disposition provided for in this plea agreement, pursuant to Rule 11(c)(4) of the Federal Rules of Criminal Procedure. The parties understand, however, that in light of other factors the Court may not agree that such a sentence is an appropriate one and may reject the plea agreement pursuant to Rule 11(c)(5)(B) of the Federal Rules of Criminal Procedure. Your client understands that if this happens, the Court, in accordance with the requirements of Rule 11(c)(5)(B), will inform the parties of its rejection of the plea agreement, and will afford your client an opportunity to withdraw the plea, or if your client persists in the guilty plea will inform your client that a final disposition may be less favorable to your client than that contemplated by this agreement. This agreement with respect to the appropriate sentence effects only incarceration. The otherwise applicable statutory and Guideline provisions are applicable to other sentencing incidents, specifically fines and terms of supervised release.

AB

AB-A

ABA

4. Should the Court not agree that the sentence agreed upon by the parties is appropriate, and your client not withdraw his plea, your client and the Government agree to the following. Your client will be sentenced upon consideration of the United States Sentencing Guidelines. The Government agrees that it will not seek any additional increases in your client's base offense level other than the increase set forth in paragraph two. The Government further agrees that it will not seek an upward departure from the otherwise applicable guideline range established by the Sentencing Guidelines Your client understands and acknowledges that the terms of this paragraph apply only to conduct that occurred prior to the execution of this agreement. Should your client commit any conduct after the date of this agreement that would form the basis for an increase in your client's base offense level or justify an upward departure (examples of which include, but are not limited to, obstruction of justice, failure to appear for a court proceeding, criminal conduct while pending sentencing, and false statements to law enforcement agents, the probation officer or Court), the Government is free under this agreement to seek an increase in the base offense level based on that post-agreement conduct.

5. Your client agrees not to object to the Government's recommendation to the Court at the time of the plea of guilty in this case that, pursuant to Title 18, United States Code, Section 3143, your client be detained without bond pending your client's sentencing in this case.

6. In entering this plea of guilty, your client understands and agrees to waive certain rights afforded to your client by the Constitution of the United States and/or by statute, including: the right against self-incrimination with respect to the offenses to which your client is pleading guilty; the right to be tried by a jury, or by a judge sitting without a jury; the right to be assisted by an attorney at trial; and the right to confront and cross-examine witnesses. Your client further agrees that the District Judge should make any Sentencing Guidelines determinations.

7. Your client understands should the Court not accept the recommended sentence of forty-eight months and your client not withdraw his plea, sentence in this case will be imposed in accordance with Title 18, United States Code, Sections 3553(a) and 3553(c) through (f), upon consideration of the United States Sentencing Commission's Guidelines Manual. Your client further understands that in that case, the sentence to be imposed is a matter solely within the discretion of the Court. Your client acknowledges that the Court is not obligated to follow any recommendation of the Government at the time of sentencing.

8. Your client understands that subject to the provisions of paragraph three of this agreement, this Office reserves its full right of allocution for purposes of sentencing in this matter. In particular, the United States reserves its right to recommend a specific period of incarceration and fine up to the maximum sentence of incarceration and fine allowable by law. In addition, if in this plea agreement the Government has agreed to recommend or refrain from recommending to the Court a particular resolution of any sentencing issue, the Government reserves its right to full allocution in any post-sentence litigation in order to defend the Court's ultimate decision on such issues. Your client further understands that the Government retains its full right of allocution in connection with any post-sentence motion which may be filed in this matter and/or any proceeding(s) before the Bureau of Prisons. In addition, your client acknowledges that the Government is not obligated and does not intend to file any downward departure sentencing motion under Section 5K1.1 of the Sentencing Guidelines, Title 18, United States Code, Section 3553(e), or any post-sentence downward departure motion in this case pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure.

THE GOVERNMENT'S OBLIGATIONS, ACKNOWLEDGMENTS AND WAIVERS:

9. This Office will request that the Court dismiss the remaining counts of the indictment in this case at the time of sentencing. Your client, however, agrees and acknowledges that the charges to be dismissed at the time of sentencing were based in fact.

10. If your client is sentenced upon consideration of the Sentencing Guidelines, rather than pursuant to paragraph three of this agreement, the following terms apply. The Government agrees that the base offense level for the crimes to which your client is pleading guilty should be decreased by three levels based upon your client's acceptance of responsibility and will file a motion with the Court, pursuant to Section 3E1.1, provided that your client cooperates and is truthful and candid during the pre-sentence investigation, and does not attempt to obstruct justice, deceive, withhold, or otherwise mislead any law enforcement agent, the Court, the Probation Office or the Government concerning any issue relevant to the imposition of sentence. Your client agrees not to seek any decreases in your client's base offense level other than those which are agreed to by the

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	**CRIMINAL NO. : 01-465(RMU)**
	:	
v.	:	
	:	
AHMED ABDALLAH ASHRAP BASHAR	:	
	:	
	:	
Defendant.	:	

NOTICE OF SUBSTITUTION OF COUNSEL

Pursuant to Local Rule 44.5(e), the United States, by and through its attorney, the United States Attorney for the District of Columbia, hereby informs the Court and counsel that Assistant U.S. Attorney John Crabb, Jr. is responsible for the prosecution of this case. Assistant United States Attorney Crabb, Jr. should be substituted for all purposes.

Respectfully submitted,

KENNETH L. WAINSTEIN
United States Attorney
Bar No. #451058

By: _____

JOHN CRABB, JR.
Assistant United States Attorney
N.Y. Bar No. # 2367670
Transnational/Major Crimes Section
555 4th Street, N.W., 11th Floor
Washington, D.C. 20530
(202) 514-7314
john.d.crabb@usdoj.gov

CERTIFICATE OF SERVICE

_____ I HEREBY CERTIFY, that a copy of the foregoing document has been mailed, postage prepaid to counsel for defendant, David Bos, Federal Public Defender, 625 Indiana Avenue, NW, Washington, DC 20004, on this ____ day of AUGUST, 2005.

_____
JOHN CRABB, JR
Assistant United States Attorney

"Jackie"

Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, JULY 2, 2004
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

EGYPTIAN NATIONAL CHARGED IN INTERNATIONAL ALIEN SMUGGLING CONSPIRACY

WASHINGTON, D.C. - Assistant Attorney General Christopher A. Wray of the Criminal Division and U.S. Attorney Kenneth Wainstein of the District of Columbia announced today that an Egyptian national has been arrested on charges stemming from his role in an international conspiracy to smuggle aliens into the United States.

Ashraf Ahmed Abdallah, 34, was arrested Friday at Miami International Airport, part of a stop in his travels from Ecuador to Egypt. Abdallah is the subject of an indictment that was returned under seal on Dec. 21, 2001, and unsealed upon his arrest today. He returned to Egypt in January 2002.

The five-count indictment, returned by a federal grand jury in Washington, D.C., alleges that Abdallah and his associates conspired to bring unauthorized aliens into the United States between June 2001 and October 2001. Specifically, Abdallah is charged with one count of conspiracy to commit alien smuggling, and four counts of aiding and abetting an attempt to bring unauthorized aliens into the country for financial gain. The investigation of Abdallah's smuggling operation continues.

Abdallah's arrest arose from an investigation in which he allegedly was identified as the principal in an operation to smuggle aliens into the United States, particularly citizens of Egypt and its neighboring countries, for commercial advantage and private financial gain. Specifically, the indictment alleges that Abdallah and his associates would allegedly direct the migrants to travel to Brazil, Nicaragua, Costa Rica and other Latin American countries, and from there to Guatemala, the base of the smuggling operation. According to the indictment, Abdallah would then stage the migrants in Guatemala and have them transported by his associates through Mexico for illegal entry into the United States. Abdallah allegedly demanded the payment of thousands of dollars from aliens and their families as a smuggling fee. The indictment also alleges that he kept the aliens' passports to guarantee payment of the final installment of their smuggling fee upon their arrival in the United States.

"Protecting the integrity of the nation's borders is critical to our national security," said Assistant Attorney General Wray. "The Department of Justice will aggressively pursue and prosecute those who compromise our security or seek to profit by illegally smuggling aliens into this country."

"Human smugglers enrich themselves by circumventing our laws and exploiting immigrants from other countries. As this indictment demonstrates, federal law enforcement will use the full force of its authority to prosecute and put these criminals out of business," stated U.S. Attorney Wainstein.

Special agents from the Washington, D.C., Mexico City, Guatemala, Ecuador and Madrid offices of the Department of Homeland Security's U.S. Immigration and Customs Enforcement (ICE) were involved in the investigation and arrest of Abdallah. The case is being prosecuted by Assistant United States Attorneys Laura Ingersoll and Jonathan Malis of the U.S. Attorney's Office in the District of Columbia, and Trial Attorneys John Scott and Anne Rodriguez-Jones of the Domestic Security Section of the Criminal Division at the U.S. Department of Justice.

The defendant will make an initial appearance before a magistrate judge in Miami before his expected transfer to the District of Columbia for formal arraignment.

If convicted of all the charges, Abdallah faces a maximum sentence of 10 years in prison on the charge of conspiracy to commit alien smuggling for financial gain, and a maximum of 15 years in prison on each count of attempting to bring three or more unauthorized aliens into the United States.

An indictment is merely a formal accusation. It is not proof of guilt and the defendant is presumed innocent until and unless he or she is proven guilty.

###

04-464

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	)	
	)	**Criminal No. 01-465 RMU**
v.	)	**Hon. Judge Ricardo M. Urbina**
	)	**Sealed Case**
SARA LUZ DIAZ-GAMEZ	)	

MOTION FOR LEAVE TO TRAVEL

Sara Luz Diaz-Gamez, through undersigned counsel, hereby requests that this honorable Court grant leave for Ms. Gamez to travel beyond the District of Columbia to visit her son, who will undergo surgery on Tuesday, June 28, 2005. In support of this motion, counsel states the following:

1. This case is currently set for status on August 11, 2005.

2. On April 20, 2005 Ms. Diaz-Gamez pled guilty to one count of conspiracy to commit alien smuggling, in violation of 8 U.S.C. §§ 1324(a)(1)(A)(i), (a)(1)(A)(v)(i), and (a)(1)(B)(i) and this Court found Ms. Diaz-Gamez guilty of the same.

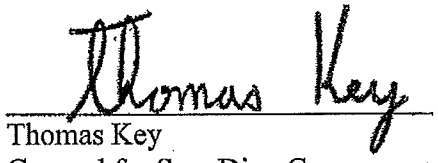
3. This Court released Ms. Diaz-Gamez pending sentencing and ordered that she maintain residence in the Washington, D.C. metropolitan area and be placed into the High-Intensity Community Supervision Program under the direction of Pretrial Services.

4. Ms. Diaz-Gamez learned that her fifteen year-old son, Erick Maldonado has severe cyanotic congenital heart disease and requires a heart catherization procedure. This procedure will be performed at Loma Linda University Children's Hospital in Loma Linda, California on June 28, 2005. It is possible that more extensive open heart surgery will be required.

5. Counsel has contacted Pretrial Services and was informed that Ms. Diaz-Gamez has been in full compliance with the terms of her release.

WHEREFORE, for the foregoing reasons Sara Luz Diaz-Gamez respectfully requests that this Motion be GRANTED and that this Honorable Court permit her to travel to California to be present during the performance of her son's medical procedures.

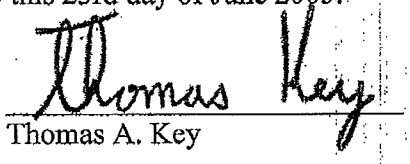
Respectfully Submitted,



Thomas Key
Counsel for Sara Diaz-Gamez
The Law Offices of Thomas Key
641 Indiana Avenue. NW, Second Floor
Washington, D.C. 20004
(202) 737-6500

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Motion for Leave to Travel was faxed to the Office of the United States Attorney for the District of Columbia, **Attention**: JONATHAN MALIS, Esquire, Transnational / Major Crimes Section, 555 Fourth Street, Northwest, Room 11-447, Washington, D.C., 20530 this 23rd day of June 2005.



Thomas A. Key

U.S. Department of Justice

Kenneth L. Wainstein
United States Attorney

District of Columbia

Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530

BY FACSIMILE

March 22, 2006

FILED
APR 28 2006
NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

A. Eduardo Balarezo, Esq.
400 5th Street, N.W., #300
Washington, D.C. 20530

Re: United States v. Bashar, 01-465 (RMU)

Dear Mr. Balarezo:

This letter confirms the agreement between your client, Ashraf Ahmed Abdallah Bashar, and the Office of the United States Attorney for the District of Columbia (hereinafter also referred to as "the Government" or "this Office"). If your client accepts the terms and conditions of this offer, please have your client execute this document in the space provided below. Upon receipt of the executed document, this letter will become the plea agreement. The terms of the offer are as follows:

Mr. Bashar's Obligations, Acknowledgments and Waivers: A-B/A

1. Your client, Ashraf Ahmed Abdallah Bashar, agrees to admit guilt and enter a plea of guilty to counts one and two in a ~~pending~~ superseding indictment, in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(i), (a)(1)(A)(iv), (a)(1)(A)(v)(I), (a)(1)(B)(i) and (a)(2)(B)(ii). Your client understands that pursuant to Title 8, United States Code, Section 1324(a)(1)(B), count one carries the following penalties: a term of incarceration of up to ten years, a fine of up to $250,000, and a term of supervised release of up to three years. Your client understands further that pursuant to Title 8, United States Code, Section 1324(a)(2)(B), count two carries the following penalties: a term of incarceration of up to ten years and a minimum of three years, a fine of up to $250,000, and a period of supervised release of up to three years. In addition, your client agrees to pay a special assessment of $100 per felony conviction to the Clerk of the United States District Court for the District of Columbia prior to the date of sentencing. Your client further understands that if the Court rejects the parties' recommendation for an appropriate sentence as set forth in paragraph three, and your client does not withdraw his plea, your client will be sentenced according to Title 18, United States Code, Sections 3553(a) and 3553(c) through (f), upon consideration of the United States Sentencing Guidelines Manual ("Sentencing Guidelines"), which will apply to determine your client's guideline range. Your client also understands that pursuant to Title 18, United States Code, Section 3571 and

Section 5E1.2 of the Sentencing Guidelines, the Court may also impose a fine that is sufficient to pay the federal government the costs of any imprisonment, term of supervised release and period of probation.

2. Your client agrees and will acknowledge at the time of the plea of guilty to the criminal charges stated above that, pursuant to Section 2L1.1(b)(2)(C), the offenses involved smuggling 100 or more aliens. Your client further agrees and will acknowledge that pursuant to Section 3B1.1(a), your client was an organizer or leader of the criminal activity.

3. Your client and the Government agree that a sentence of forty-eight months each count, to be served concurrently is the appropriate sentence for the offenses to which your client is pleading guilty. The Government also agrees, pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, to present this plea agreement between the parties to the Court for its approval. If the Court accepts the plea agreement and the specific sentence agreed upon by the parties, then the Court will embody in the judgment and sentence the disposition provided for in this plea agreement, pursuant to Rule 11(c)(4) of the Federal Rules of Criminal Procedure. The parties understand, however, that in light of other factors the Court may not agree that such a sentence is an appropriate one and may reject the plea agreement pursuant to Rule 11(c)(5)(B) of the Federal Rules of Criminal Procedure. Your client understands that if this happens, the Court, in accordance with the requirements of Rule 11(c)(5)(B), will inform the parties of its rejection of the plea agreement, and will afford your client an opportunity to withdraw the plea, or if your client persists in the guilty plea will inform your client that a final disposition may be less favorable to your client than that contemplated by this agreement. This agreement with respect to the appropriate sentence effects only incarceration. The otherwise applicable statutory and Guideline provisions are applicable to other sentencing incidents, specifically fines and terms of supervised release.

AGB AB-A

AB AB A

4. Should the Court not agree that the sentence agreed upon by the parties is appropriate, and your client not withdraw his plea, your client and the Government agree to the following. Your client will be sentenced upon consideration of the United States Sentencing Guidelines. The Government agrees that it will not seek any additional increases in your client's base offense level other than the increase set forth in paragraph two. The Government further agrees that it will not seek an upward departure from the otherwise applicable guideline range established by the Sentencing Guidelines Your client understands and acknowledges that the terms of this paragraph apply only to conduct that occurred prior to the execution of this agreement. Should your client commit any conduct after the date of this agreement that would form the basis for an increase in your client's base offense level or justify an upward departure (examples of which include, but are not limited to, obstruction of justice, failure to appear for a court proceeding, criminal conduct while pending sentencing, and false statements to law enforcement agents, the probation officer or Court), the Government is free under this agreement to seek an increase in the base offense level based on that post-agreement conduct.

5. Your client agrees not to object to the Government's recommendation to the Court at the time of the plea of guilty in this case that, pursuant to Title 18, United States Code, Section 3143, your client be detained without bond pending your client's sentencing in this case.

6. In entering this plea of guilty, your client understands and agrees to waive certain rights afforded to your client by the Constitution of the United States and/or by statute, including: the right against self-incrimination with respect to the offenses to which your client is pleading guilty; the right to be tried by a jury, or by a judge sitting without a jury; the right to be assisted by an attorney at trial; and the right to confront and cross-examine witnesses. Your client further agrees that the District Judge should make any Sentencing Guidelines determinations.

7. Your client understands should the Court not accept the recommended sentence of forty-eight months and your client not withdraw his plea, sentence in this case will be imposed in accordance with Title 18, United States Code, Sections 3553(a) and 3553(c) through (f), upon consideration of the United States Sentencing Commission's Guidelines Manual. Your client further understands that in that case, the sentence to be imposed is a matter solely within the discretion of the Court. Your client acknowledges that the Court is not obligated to follow any recommendation of the Government at the time of sentencing.

8. Your client understands that subject to the provisions of paragraph three of this agreement, this Office reserves its full right of allocution for purposes of sentencing in this matter. In particular, the United States reserves its right to recommend a specific period of incarceration and fine up to the maximum sentence of incarceration and fine allowable by law. In addition, if in this plea agreement the Government has agreed to recommend or refrain from recommending to the Court a particular resolution of any sentencing issue, the Government reserves its right to full allocution in any post-sentence litigation in order to defend the Court's ultimate decision on such issues. Your client further understands that the Government retains its full right of allocution in connection with any post-sentence motion which may be filed in this matter and/or any proceeding(s) before the Bureau of Prisons. In addition, your client acknowledges that the Government is not obligated and does not intend to file any downward departure sentencing motion under Section 5K1.1 of the Sentencing Guidelines, Title 18, United States Code, Section 3553(e), or any post-sentence downward departure motion in this case pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure.

THE GOVERNMENT'S OBLIGATIONS, ACKNOWLEDGMENTS AND WAIVERS:

9. This Office will request that the Court dismiss the remaining counts of the indictment in this case at the time of sentencing. Your client, however, agrees and acknowledges that the charges to be dismissed at the time of sentencing were based in fact.

10. If your client is sentenced upon consideration of the Sentencing Guidelines, rather than pursuant to paragraph three of this agreement, the following terms apply. The Government agrees that the base offense level for the crimes to which your client is pleading guilty should be decreased by three levels based upon your client's acceptance of responsibility and will file a motion with the Court, pursuant to Section 3E1.1, provided that your client cooperates and is truthful and candid during the pre-sentence investigation, and does not attempt to obstruct justice, deceive, withhold, or otherwise mislead any law enforcement agent, the Court, the Probation Office or the Government concerning any issue relevant to the imposition of sentence. Your client agrees not to seek any decreases in your client's base offense level other than those which are agreed to by the

Government in this paragraph. Your client further agrees not to seek a downward departure for any reason from the otherwise applicable guideline range established by the Sentencing Guidelines. Your client understands and acknowledges that the position of the Government with respect to your client's base offense level, like any other recommendation made by the United States Attorney's Office at the time of sentencing, is not binding on the Probation Office or the Court, neither of which are parties to this agreement. Your client understands and acknowledges that the failure of the Court to sentence your client in accordance with the terms of this paragraph shall not be grounds for your client to withdraw his the plea of guilty in this case in the event sentence is imposed pursuant to this paragraph rather than pursuant to paragraph three.

General Conditions

11. This letter sets forth the entire understanding between the parties and constitutes the complete plea agreement between your client and the United States Attorney's Office for the District of Columbia. This agreement supersedes all prior understandings, promises, agreements, or conditions, if any, between this Office and your client.

12. This agreement only binds the United States Attorney's Office for the District of Columbia. It does not bind any other United States Attorney's Office or any other office or agency of the United States Government, including, but not limited to, the Tax Division of the United States Department of Justice, the Internal Revenue Service of the United States Department of the Treasury, the Immigration and Customs Enforcement Service of the Department of Homeland Security, or any state or local prosecutor. These individuals, and agencies remain free to prosecute your client for any offense(s) committed within their respective jurisdictions. Your client is not a citizen of the United States, and your client understands and acknowledges that the guilty plea in this case might subject your client to detention, deportation and other sanctions at the direction of the Immigration and Customs Enforcement Service.

13. There are no other agreements, promises, understandings or undertakings between your client and this Office . Your client understands and acknowledges that there can be no valid addition or alteration to this agreement unless the modification is made on the record in open Court or made in a writing signed by all of the parties.

Sincerely,

Kenneth L. Wainstein/JCrabb

KENNETH L. WAINSTEIN.
United States Attorney

John Crabb Jr.
Assistant United States Attorney

DEFENDANT'S ACCEPTANCE

I have read this plea agreement and have discussed it with my attorney, A. Eduardo Balarezo, Esq. I fully understand this agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this agreement fully. I am pleading guilty because I am in fact guilty of the offenses identified in paragraph one.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this plea agreement. I am satisfied with the legal services provided by my attorney in connection with this plea agreement and matters related to it.

Date: 4-28-006

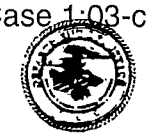
ABDALLAH BASHAR
Ashraf Ahmed Abdallah Bashar
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read each of the pages constituting this plea agreement, reviewed them with my client, and discussed the provisions of the agreement with my client, fully. These pages accurately and completely sets forth the entire plea agreement. I concur in my client's desire to plead guilty as set forth in this agreement.

Date: 4/28/06

A. Eduardo Balarezo, Esq.
Attorney for the Defendant



U.S. Department of Justice

United States Attorney
Southern District of Florida

99 N.E. 4th Street
Miami, FL 33132
(305) 961-9006

February 25, 2004

Roy J. Kahn, Esquire
799 Brickell Avenue, Suite 606
Miami, Florida 33131

Re: United States v. Mehrzad Arbane
Case No. 03-20765-CR-UNGARO-BENAGES

Dear Mr. Kahn:

By this letter, the United States hereby gives notice of the following evidence. This evidence may be evidence under F.R.E. 404(b), although the United States is not willing to concede that point, and, rather, views this evidence as inextricably intertwined evidence which explains the relationship between the defendant and the cooperating witness and how they came to be involved with each other in the efforts to import the shipment of cocaine which was seized by the Ecuadorian National Police on January 8, 2002.

The cooperating witness met the defendant in Bogota, Colombia in February of 1999. He knew the defendant as "Tony" and knew him to have five or six false passports. He also knew the defendant to be involved in purchasing credit card numbers and encoding them on to blank cards. The cooperating witness initially purchased "half-price" airline tickets from the defendant.

The cooperating witness knew the defendant to be involved in both drug smuggling and alien smuggling. The aliens were brought from India and the Middle East to Ecuador and Paraguay. They were then smuggled into the United States through Cancun, Mexico, Mexico City, Mexico, and Canada. The defendant would provide the aliens with photo substituted Canadian passports and had immigration officials in Mexico who would pass the aliens through Mexico and stamp the passports. The cooperating witness also stated that the defendant had a Middle Eastern friend who owned a strip club in El Paso, Texas who would assist in getting the aliens across the border. The aliens were charged between $35,000 and $50,000 to be smuggled. The cooperating witness was also aware of the defendant's business/supermarket in Albany, New York.

The cooperating witness recalled one instance when he was given $10,000 by the defendant to bail out four aliens who had been arrested. He recalled an incident in the summer of 2000 when the defendant

went to Costa Rica to buy visas from the United States Embassy but did not get any because there were only visas for people with Hispanic surnames. He also recalled that in November or December of 2000, the defendant wanted to purchase an aircraft to smuggle aliens into the United States by flying them in to Opa Locka airport. The pilot he was going to use was an individual named Luis Castillo. He further recalled that in February of 2001, the defendant lost a pilot and some Chinese and Indian aliens who were arrested in Nicaragua. He recalled that the defendant usually traveled with $10,000 to $20,000 in cash and a $100,000 in traveler's checks. He recalled that the defendant was arrested once on his way to Costa Rica from Colombia for failing to declare $35,000 in currency and had to pay $10,000 to get out of jail. He recalled that in August of 2001, he met the defendant in Cancun, Mexico to obtain more false Canadian documents. The cooperating witness also recalled a meeting he had with the defendant in Mexico at a shopping mall shortly after 9/11 where the defendant expressed his fear that he may have smuggled two of the 9/11 hijackers into the United States and that he was going to hide out in Venezuela.

With respect to drug smuggling, the cooperating witness recounted the following. The cooperating witness was involved with the defendant in smuggling cocaine into the United States dating back to 2000. The cocaine was smuggled inside of checked luggage which was placed on board Ecuatoriana Airline flights from Ecuador to Mexico. The defendant had people who would get the bags on board the aircraft in Ecuador and people who would take the bags off in Mexico. The cocaine was then trucked across the United States border. When Ecuatoriana Airlines went out of business, the defendant purchased an aircraft and had cocaine flown on board the aircraft from Ecuador to Toluca, Mexico. The defendant and the cooperating witness shipped approximately 250 kilograms of cocaine every ten days within the tail cone of the aircraft. Once the cocaine arrived in Toluca, Mexico, it was transported inside of minivans across the border near Laredo, Texas and delivered to Miami and New York.

If you wish to discuss any of these matters, please do not hesitate to contact me at (305) 961-9272.

Very truly yours,

MARCOS DANIEL JIMENEZ
UNITED STATES ATTORNEY

By: _____
JONATHAN M. F. LOO
Assistant United States Attorney

CRIMINAL MINUTES

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK
ALBANY, NEW YORK
HON. DAVID R. HOMER, PRESIDING
UNITED STATES MAGISTRATE JUDGE

COPY

DATE: October 1, 2003
TIME: 2:00 U.S. DISTRICT COURT
CD: 034-103

COURTROOM DEPUTY: CINDY MEZOFF
COURT ECRO: Same
INTERPRETER: Timmy Tiemoori
[kinterp.] (Certified / Non-certified)
LANGUAGE: Farsi

2

CLERK

03-M-388 (Removal)

UNITED STATES OF AMERICA
vs.

DOCKET NUMBER: _____

Mehrzad Arbane, by Thomas O'Hern Esq.
[kdaddatty.]
____ Pub. Defender ____ Retained ____ CJA Assigned ____ Waived

AUSA, Tina Sciocchetti, for Government [kgaddatty.]

PRETRIAL OFFICER(s): _____

____ DATE OF ARREST [kars.] _____

____ INITIAL APPEARANCE [kia.]
X REMOVAL HEARING [krmvhrg.]
____ RULE 40 DOCS RECEIVED [kr40doc.]
____ ARRAIGNMENT [karr.]
____ ARRAIGNMENT ON SUPERSEDING INDICTMENT [karrsps.]
____ DETENTION HEARING [kdtnhrg.]
____ PROBATION/SUPERVISED RELEASE VIOLATION HEARING [kprohrg.]
____ BOND HEARING [kbndhrg.]
____ PRELIMINARY HEARING [kprlxm.]
____ NEBBIA HEARING [knbhrg.]
____ DET/PLACEMENT HEARING
____ HIIP COMPLETION HEARING
____ I.A. on VIOLATION

____ NEXT APPEARANCE: _____ for:

____ Arraignment [arrddl.]
____ Preliminary Hearing [prlxmddl.]
____ Detention Hearing [dtnhrgddl.]
____ Bond Hearing [bndhrgddl.]
____ Removal / Identity Hearing [rmvhrgddl.]
____ Other: _____

____ DEFT. APPEARS 1st time with COUNSEL [kcnsl.]
____ DEFT. APPEARS WITHOUT COUNSEL

____ FINANCIAL AFFIDAVIT filed [kfinaff.]
____ COUNSEL to be APPOINTED BY COURT

____ GOVT. MOVES to UNSEAL: [kgoralm.]
____ COMPLAINT [kcmpuns.]
____ INDICTMENT [kindiuns.]
____ INFORMATION [kinfouns.]

____ COURT: ____ GRANTS MOTION to UNSEAL ____ DENIES MOTION to UNSEAL [koralo.]

X DEFT. Advised of rights, maximum penalty stated and given a copy of:
____ Complaint ____ Information ____ Indictment ____ Superseding Indictment ____ Petition/Warrant

____ GOVT. MOVES for DETENTION [kgoralm.]: ____ Risk of Flight ____ Danger to Community

____ GOVT. RECOMMENDS BAIL AT: $ _____ PRB ____ ROR ____

____ ATTY. Waives the formal reading; and enters a PLEA of NOT GUILTY. [kpl.]

AO 466 (Rev. 1/03) Waiver of Rule 40 Hearings

COPY

UNITED STATES DISTRICT COURT

U.S. DISTRICT COURT N.D. OF N.Y. FILED

NORTHERN DISTRICT OF NEW YORK

OCT 2003

UNITED STATES OF AMERICA

WAIVER OF RULE 40 HEARINGS

(All Criminal Cases)

LAWRENCE K. BAERMAN, CLERK ALBANY

V.

JUDGE: David R. Homer, USMJ

MAHRZAD ARBANE

Defendant

CASE NUMBER: ~~03-CR-209~~ 03-M-388

I understand that charges are pending in the SOUTHERN District of FLORIDA

alleging violation of 21 USC 963 and that I have been arrested in this district and

(Title and Section / Probation / Supervised Release)

taken before a United States magistrate judge, who has informed me of the charge(s) and my rights to:

(1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
(2) an identity hearing to determine whether I am the person named in the charges;

- Check one only -

[ ] **ALL CASES EXCEPT PROBATION OR SUPERVISED RELEASE:**

(3) a preliminary examination (unless an indictment has been returned or information filed) to determine whether there is probable cause to believe an offense has been committed by me, the hearing to be held in this district or the district of prosecution; and
(4) request transfer of the proceedings to this district under Rule 20, Fed. R. Crim. P., in order to plead guilty.

[ ] **PROBATION OR SUPERVISED RELEASE VIOLATION CASES:**

(3) a preliminary hearing (but only if I will be kept in custody, and only to be held in this district if the violation occured here) to determine whether there is probable cause to believe a violation occured; and
(4) a hearing under Rule 32.1 (a)(6), Fed. R. Crim. P., in which I have the burden of establishing my eligibility for release from custody.

I HEREBY WAIVE (GIVE UP) MY RIGHT TO A(N):

(✓) identity hearing

( ) preliminary hearing

( ) identity hearing and have been informed I have no right to a preliminary hearing

( ) identity hearing but request a preliminary hearing be held in the prosecuting district and, therefore, consent to the issuance of an order requiring my appearance in the prosecuting district where the charges are pending against me.

Defendant

10/1/03
Date

Defense Counsel

I certify that this is a true and correct copy of an original document on file in this office.
Date 10/10/03 Lawrence K. Baerman, Clerk
U.S. District Court - NDNY
By: J Burt Deputy

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

(5)

UNITED STATES OF AMERICA

v.

Mahrzad Arbane,

Defendant

COPY

ORDER OF DETENTION PENDING TRIAL

Case Number: 03-M- 388

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I - Findings of Fact

____ (1) The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and has been convicted of a (federal offense) (state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is

- _____ a crime of violence as defined in 18 U.S.C. §3156(a)(4).
- _____ an offense for which the maximum sentence is life imprisonment or death.
- _____ an offense for which a maximum term of imprisonment of ten years or more is prescribed in ___ _____.*
- _____ a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-(C), or comparable state or local offenses.

____ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.

____ (3) A period of not more than five years has elapsed since the (date of conviction) (release of the defendant from imprisonment) for the offense described in finding (1).

____ (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternative Findings (A)

___ (1) There is probable cause to believe that the defendant has committed an offense

- _____ for which a maximum term of imprisonment of ten years or more is prescribed in 21 U.S.C. § 841(b).
- _____ under 18 U.S.C. § 924(c).

___ (2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings (B)

X (1) There is a serious risk that the defendant will not appear.

X (2) There is a serious risk that the defendant will endanger the safety of another person in the community.

Part II - Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by clear and convincing evidence that the facts asserted in the Pretrial Services report are substantially accurate and the defendant has not opposed the government's motion. However, the defendant is granted leave to seek reconsideration if circumstances change.

Part III - Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Dated: October 1, 2003

David R. Homer

Signature of Judicial Officer

David R. Homer, U.S.M.J.

Name and Title of Judicial Officer

*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 et seq.); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 et seq.); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. §955a).

I certify that this is a true and correct copy of an original document on file in this office.
Date 10/10/03 Lawrence K. Baerman, Clerk
U.S. District Court - NDNY
By: _____, Deputy

AO 442 (Rev. 5/93) Warrant for Arrest

United States District Court

Southern DISTRICT OF Florida

UNITED STATES OF AMERICA

v.

MEHRZAD ARBANE a/k/a "Tony"
a/k/a "El Turco"
a/k/a "Achi Saba"

WARRANT FOR ARREST

CASE NUMBER: 03-2594-STB

To: The United States Marshal
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest MEHRZAD ARBANE
Name

and bring him or her forthwith to the nearest magistrate judge to answer a(n)

☐ Indictment ☐ Information ☒ Complaint ☐ Order of court ☐ Violation Notice ☐ Probation Violation Petition

charging him or her with (brief description of offense)
Knowingly and intentionally combining, conspiring, and confederating to import into the United States a Schedule II controlled substance, that is, five kilograms or more of cocaine

in violation of Title 21 United States Code, Section(s) 963

Stephen T. Brown
Name of Issuing Officer

United States Magistrate Judge
Title of Issuing Officer

Signature of Issuing Officer

5-1-2003 at Miami Florida
Date and Location

Bail fixed at $ PTD by United States Magistrate Judge Stephen T. Brown
Name of Judicial Officer

RETURN		
This warrant was received and executed with the arrest of the above-named defendant at		
DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		

This form was electronically produced by Elite Federal Forms, Inc.

AO 91 (Rev. 5/85) Criminal Complaint

United States District Court

Southern DISTRICT OF Florida

UNITED STATES OF AMERICA

V.

MEHRZAD ARBANE a/k/a "Tony"
a/k/a "El Turco"
a/k/a "Achi Saba"

(Name and Address of Defendant)

CRIMINAL COMPLAINT

CASE NUMBER: 03-2594-STB

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about 12/23/01 through 1/8/02 in Miami-Dade county, in the Southern District of Florida defendant(s) did, (Track Statutory Language of Offense)

Knowingly and intentionally combine, conspire, and confederate to import into the United States a Schedule II controlled substance, that is, five kilograms or more of cocaine

in violation of Title 21 United States Code, Section(s) 963.

I further state that I am a(n) _____ and that this complaint is based on the following
Official Title

facts:

See attached affidavit

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Signature of Complainant

Sworn to before me and subscribed in my presence,

5-1-3
Date

Stephen T. Brown
United States Magistrate Judge
Name & Title of Judicial Officer

Miami, Florida
City and State

Signature of Judicial Officer

Certificate, a true and correct copy of the original.
Clarence Maddox, Clerk,
U.S. District Court
Southern District of Florida
By _____ Deputy Clerk
Date 5/1/03

This form was electronically produced by Elite Federal Forms, Inc.

Jem
Bonie

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

03-20765 CASE NO. CR-UNGARO-BENAGES MAGISTRATE JUDGE BROWN

21 U.S.C. § 963
21 U.S.C. § 853

UNITED STATES OF AMERICA

vs.

MEHRZAD ARBANE,
a/k/a "Tony,"
a/k/a "El Turco,"
a/k/a "Achi Saba,"

Defendant.
_____/

FILED by MAG. SEC. D.C.
SEP 18 2003
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. MIAMI

INDICTMENT

From in or about October, 2001, the exact date being unknown to the Grand Jury, and continuing through on or about January 8, 2002, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

MEHRZAD ARBANE,
a/k/a "Tony,"
a/k/a "El Turco,"
a/k/a "Achi Saba,"

did knowingly and intentionally combine, conspire, confederate, and agree with other persons both known and unknown to the Grand Jury, to import into the United States from a place outside thereof, a Schedule II controlled substance, that is, five or more kilograms of a mixture and substance containing a detectable amount of cocaine, in violation of Title 21, United States Code, Section 952(a); all in violation of Title 21, United States Code, Sections 963 and 960(b)(1)(B).

CRIMINAL FORFEITURE

1. The allegations of this Indictment are realleged and by this reference fully incorporated herein for the purpose of alleging forfeitures to the United States of America of certain property in which the defendant has an interest, pursuant to the provisions of Title 21, United States Code, Section 853.

2. Upon conviction of the violation alleged in this Indictment, the defendant shall forfeit to the United States any property constituting or derived from any proceeds which the defendant obtained, directly or indirectly, as the result of such violation, and any property which the defendant used or intended to be used in any manner or part to commit or to facilitate the commission of such violation.

All pursuant to Title 21, United States Code, Section 853.

A TRUE BILL

FOREPERSON

For MARCOS DANIEL JIMENEZ
UNITED STATES ATTORNEY

JONATHAN M. F. LOO
ASSISTANT UNITED STATES ATTORNEY

REC'D by _____ D.C.
INTAKE
OCT 14 2003
CLERK U.S. DIST. COURT
S.D. OF FLA - MIAMI

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

LAWRENCE K. BAERMAN
CLERK

JAMES T. FOLEY COURTHOUSE
445 BROADWAY, ROOM 509
ALBANY, NEW YORK 12207-2924
(518) 257-1808

October 10, 2003

Clerk, U.S. District Court
Southern District of Florida
Federal Courthouse Square
301 North Miami Avenue
Miami, FL 33128-7788

RE: USA V. Mehrzad Arbane
NDNY Case No.03-M-388 DRH
District of Southern Florida Court Case No.03-20765 CR-Unargo-Benages (M.J. Brown)

Dear Sir or Madam:

Enclosed please find certified copies of the following papers regarding the above named defendant:

1. COMMITMENT TO ANOTHER DISTRICT
2. DOCKET SHEET FROM NDNY
3. OTHER RELATED DOCUMENTS

Please acknowledge receipt of same by signing and dating the enclosed copy of this letter and returning it to the Clerk's Office in Albany, NY.

Thank you for your attention in this matter.

Sincerely yours,

LAWRENCE K. BAERMAN, CLERK

By: Tara Burtt
Tara Burtt
Deputy Clerk

Encs.

ACKNOWLEDGMENT: _____

11/8

COPY

AO 94 (Rev. 8/97) Commitment to Another District

UNITED STATES DISTRICT COURT

NORTHERN District of NEW YORK

3

UNITED STATES OF AMERICA
V.
MAHRZAD ARBANE

COMMITMENT TO ANOTHER DISTRICT

LAWRENCE K. BAERMAN, CLERK
ALBANY

DOCKET NUMBER		MAGISTRATE JUDGE CASE NUMBER	
District of Arrest	District of Offense	District of Arrest	District of Offense
03-M-388 ~~03-CR-209~~	03-20765	03-M388 DRH	

CHARGES AGAINST THE DEFENDANT ARE BASED UPON AN

☑ Indictment ☐ Information ☐ Complaint ☐ Other ~~(specify)~~

charging a violation of 21 **U.S.C. §** 963

DISTRICT OF OFFENSE
SOUTHERN DISTRICT OF FL

DESCRIPTION OF CHARGES:
knowingly and intentionally combine, conspire, confederate , and agree with other persons both known and unknown to the grand jury, to import into the United States from a place outside thereof, a Schedule II controlled substance, that is, five or more kilograms of a mixture and substance containing a detectable amount of cocaine.

CURRENT BOND STATUS:

☐ Bail fixed at $ and conditions were not met
☐ Government moved for detention and defendant detained after hearing in District of Arrest
☐ Government moved for detention and defendant detained pending detention hearing in District of Offense
☐ Other (specify)

Representation: ☐ Retained Own Counsel ☐ Federal Defender Organization ☐ CJA Attorney ☐ None

Interpreter Required? ☐ No ☑ Yes Language: Farci

DISTRICT OF

TO: THE UNITED STATES MARSHAL

You are hereby commanded to take custody of the above named defendant and to transport that defendant with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the defendant to the United States Marshal for that District or to some other officer authorized to receive the defendant.

10/1/03
Date

David R. Homer
United States ~~Judge~~ or Magistrate Judge

RETURN

This commitment was received and executed as follows:

I certify that this is a true and correct copy of an original document on file in this office.
Date 10/01/03 Lawrence K. Baerman, Clerk
U.S. District Court - NDNY
By: Cynthia J. Merritt, Deputy

DATE COMMITMENT ORDER RECEIVED	PLACE OF COMMITMENT	DATE DEFENDANT COMMITTED

DATE	UNITED STATES MARSHAL	(BY) DEPUTY MARSHAL

I certify that this is a true and correct copy of an original document on file in this office.
Date 10/11/03 Lawrence K. Baerman, Clerk
U.S. District Court - NDNY
By: J Burth, Deputy

COPY

CLOSED

U.S. District Court
Northern District of New York (Albany)

CRIMINAL DOCKET FOR CASE #: 03-M -388-ALL

USA v. Arbane
Dkt# in other court: None

Filed: 10/01/03

Case Assigned to: Magistrate Judge David R. Homer

MEHRZAD ARBANE (1)
aka
Tony
aka
El Turco
aka
Achi Saba
defendant

Thomas J. O'Hern
Fax: 518-456-6056
[COR LD NTC cja]
Gerstenzang, O'Hern Law Firm
210 Great Oaks Boulevard
Albany, NY 12203
518-456-6456

Pending Counts:

NONE

Terminated Counts:

NONE

Complaints:

NONE

U. S. Attorneys:

Tina E. Sciocchetti, AUSA
FAX 518-431-0249
[COR LD NTC]
Office of United States
Attorney
James T. Foley U.S. Courthouse
445 Broadway
Room 218
Albany, NY 12207-2924
518-431-0247

I certify that this is a true and correct copy of an original document on file in this office.
Date 10/10/03 Lawrence K. Baerman, Clerk
U.S. District Court - NDNY
By: Sara Burst, Deputy

Proceedings include all events.
1:03m 388-ALL USA v. Arbane

CLOSED

10/1/03	1	Rule 40 Documents as to Mehrzad Arbane received from Southern District of Florida (SD of Florida # 03-20765CR) (tab) [Entry date 10/03/03]
10/1/03	--	Removal hearing as to Mehrzad Arbane held (tab) [Entry date 10/03/03]
10/1/03	2	Minute entry as to Mehrzad Arbane : Court Reporter/ECRO: Cindy Mezoff Tape #: 03H-103 Interpreter: Timmy Tiemoori (Farci) Appearances: Tina Sciocchetti, AUSA for government, Thomas O'Hern, Esq. for defendant. Removal hearing held, Waiver of Rule 40 hearing signed, filed. Defendant ordered removed to SD of Florida. Defendant remanded. (tab) [Entry date 10/03/03]
10/1/03	3	COMMITMENT ORDER as to Mehrzad Arbane; removing defendant to the Southern District of Florida. (Signed by Magistrate Judge David R. Homer on 10/1/03) (tab) [Entry date 10/03/03]
10/1/03	4	WAIVER of Rule 40 Hearings by Mehrzad Arbane (tab) [Entry date 10/03/03]
10/2/03	5	ORDER OF DETENTION as to Mehrzad Arbane (Signed by Magistrate Judge David R. Homer on 10/1/03) (tab) [Entry date 10/03/03]

COPY

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

OCT 01 2003

LAWRENCE K. BAERMAN, CLERK
ALBANY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: MEHRZAD ARBANE, a/k/a "Tony," a/k/a "El Turco," a/k/a "Achi Saba,"

CASE NO. 03-20765 CR-UNGARO-BENAGES MAGISTRATE JUDGE BROWN

Count #: 1

Conspiracy to Import Cocaine

21 U.S.C. § 963

FILED by _____ D.C.
MAG. SEC.
SEP 15 2003

* Max.Penalty Life imprisonment

Count #:

*Max. Penalty:

Count #:

*Max. Penalty:

Count #:

I certify that this is a true and correct copy of an original document on file in this office.
Date 10/10/03 Lawrence K. Baerman, Clerk
U.S. District Court - NDNY
By: _____, Deputy

*Max. Penalty:

*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

BOND RECOMMENDATION

DEFENDANT: MEHRZAD ARBANE

Pretrial Detention

(Surety) (Recognizance) (Corp. Surety) (Cash) (Jail)
(CSB) (No Bond) (Warrant) (Summons) (Marshal's Custody)

By: JONATHAN LOO
ASSISTANT UNITED STATES ATTORNEY

Last Known Address: United States Marshals Service, N.D.N.Y.

What Facility:

Agent(s): David Picani, BICE
(FBI) (SECRET SERVICE) (DEA) (IRS) (CUSTOMS) (OTHER)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

vs.

MEHRZAD ARBANE,
a/k/a "Tony,"
a/k/a "El Turco,"
a/k/a "Achi Saba,"

Defendant.

CASE NO. 03-20765 MAGISTRATE JUDGE CR. UNGARO-BENAGES BROWN

CERTIFICATE OF TRIAL ATTORNEY

FILED by _____ D.C.
MAG. SEC.
SEP 10 2003
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. MIAMI

Superseding Case Information:

New Defendant(s) Yes ___ No ___
Number of New Defendants
Total number of counts

Court Division: (Select One)

X Miami ___ Key West
___ FTL ___ WPB ___ FTP

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.

2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No
List language and/or dialect _____

4. This case will take 5 days for the parties to try.

5. Please check appropriate category and type of offense listed below:

(Check only one)			(Check only one)	
I	0 to 5 days	X	Petty	___
II	6 to 10 days	___	Minor	___
III	11 to 20 days	___	Misdem.	___
IV	21 to 60 days	___	Felony	X
V	61 days and over	___		

6. Has this case been previously filed in this District Court? (Yes or No) No
If yes:
Judge: _____ Case No. _____
(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) Yes
If yes:
Magistrate Case No. 03-2594-Brown
Related Miscellaneous numbers: _____
Defendant(s) in federal custody as of _____
Defendant(s) in state custody as of _____
Rule 20 from the _____ District of _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the U.S. Attorney's Office prior to April 1, 2003? X Yes ___ No

8. Does this case originate from a matter pending in the U. S. Attorney's Office prior to April 1, 1999? ___ Yes X No
If yes, was it pending in the Central Region? ___ Yes ___ No

9. Did this case originate in the Narcotics Section, Miami? X Yes ___ No

JONATHAN M.F. LOO
ASSISTANT UNITED STATES ATTORNEY
COURT I.D. No. A5500272

*Penalty Sheet(s) attached

REV.7/11/03

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

vs. 03 - 20765 CR-UNGARO-BENAGES

MEHRZAD ARBANE,
a/k/a "Tony,"
a/k/a "El Turco,"
a/k/a "Achi Saba,"

Defendant.

CASE NO. _____

CERTIFICATE OF TRIAL ATTORNEY*

FILED by MAG. SEC.

Superseding Case Information:

New Defendant(s) Yes ___ No ___
Number of New Defendants ___
Total number of counts ___

Court Division: (Select One)

X Miami ___ Key West
___ FTL ___ WPB ___ FTP

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.

2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No
List language and/or dialect _____

4. This case will take 5 days for the parties to try.

5. Please check appropriate category and type of offense listed below:

(Check only one)			(Check only one)	
I	0 to 5 days	X	Petty	
II	6 to 10 days		Minor	
III	11 to 20 days		Misdem.	
IV	21 to 60 days		Felony	X
V	61 days and over			

6. Has this case been previously filed in this District Court? (Yes or No) No
If yes:
Judge: _____ Case No. _____
(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) Yes
If yes:
Magistrate Case No. 03-2594-Brown
Related Miscellaneous numbers: _____
Defendant(s) in federal custody as of _____
Defendant(s) in state custody as of _____
Rule 20 from the _____ District of _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the U.S. Attorney's Office prior to April 1, 2003? X Yes ___ No

8. Does this case originate from a matter pending in the U. S. Attorney's Office prior to April 1, 1999? ___ Yes X No
If yes, was it pending in the Central Region? ___ Yes ___ No

9. Did this case originate in the Narcotics Section, Miami? X Yes ___ No

JONATHAN M.F. LOO
ASSISTANT UNITED STATES ATTORNEY
COURT I.D. No. A5500272

*Penalty Sheet(s) attached

REV.7/11/03

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: **MEHRZAD ARBANE, a/k/a "Tony," a/k/a "El Turco," a/k/a "Achi Saba,"**

CASE NO. **03 - 20765** CR-UNGARO-BENAGES MAGISTRATE JUDGE BROWN

Count #: 1

Conspiracy to Import Cocaine

21 U.S.C. § 963

FILED by _____ D.C.
MAG. SEC.

*** Max.Penalty** Life imprisonment

Count #:

***Max. Penalty:**

Count #:

***Max. Penalty:**

Count #:

***Max. Penalty:**

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA
Plaintiff
-vs-
Arbane, Mahkzad
Defendant

CASE NUMBER: CR 03-20765-cr-Ungaro Benages

REPORT COMMENCING CRIMINAL ACTION

160026-179
USMS Number

FILED by MAG. SEC. D.C. OCT 10 2003 CLARENCE MADDOX CLERK U.S. DIST. CT. S.D. OF FLA. MIAMI

****

TO: CLERK'S OFFICE U.S. DISTRICT COURT MIAMI FT. LAUDERDALE W. PALM BEACH (circle one)

NOTE: CIRCLE APPROPRIATE LOCATION FOR APPEARANCE IN MAGISTRATES COURT ABOVE.

****

COMPLETE ALL ITEMS. INFORMATION NOT APPLICABLE ENTER N/A

(1) DATE AND TIME OF ARREST: 10/10/03 AM ____ PM ____

(2) LANGUAGE SPOKEN: S

(3) OFFENSE(S) CHARGED: Smuggling cocaine

(4) UNITED STATES CITIZEN: ( ) YES ( ) NO ( ) UNKNOWN

(5) DATE OF BIRTH: 1/1/58

(6) TYPE OF CHARGING DOCUMENT: (check one)
[ ] INDICTMENT [ ] COMPLAINT TO BE FILED/ALREADY FILED
CASE # ____
[ ] BENCH WARRANT FOR FAILURE TO APPEAR
[ ] PROBATION VIOLATION WARRANT
[ ] PAROLE VIOLATION WARRANT
ORIGINATING DISTRICT: ____
COPY OF WARRANT LEFT WITH BOOKING OFFICER [ ] YES [ ] NO

AMOUNT OF BOND: $____ WHO SET BOND? ____

(7) REMARKS: ____

(8) DATE: 10/10/03 ARRESTING OFFICER: ____

(10) AGENCY: ____ (11) PHONE: ____

(12) COMMENTS: ____

1/6

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

03-20765 CASE NO. CR-UNGARO-BENAGES MAGISTRATE JUDGE BROWN

21 U.S.C. § 963
21 U.S.C. § 853

UNITED STATES OF AMERICA

vs.

MEHRZAD ARBANE,
a/k/a "Tony,"
a/k/a "El Turco,"
a/k/a "Achi Saba,"

Defendant.
_____/

FILED by _____ D.C.
MAG. SEC.
SEP 1 2003
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. MIAMI

INDICTMENT

From in or about October, 2001, the exact date being unknown to the Grand Jury, and continuing through on or about January 8, 2002, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

MEHRZAD ARBANE,
a/k/a "Tony,"
a/k/a "El Turco,"
a/k/a "Achi Saba,"

did knowingly and intentionally combine, conspire, confederate, and agree with other persons both known and unknown to the Grand Jury, to import into the United States from a place outside thereof, a Schedule II controlled substance, that is, five or more kilograms of a mixture and substance containing a detectable amount of cocaine, in violation of Title 21, United States Code, Section 952(a); all in violation of Title 21, United States Code, Sections 963 and 960(b)(1)(B).

SCANNED

B
P.6

CRIMINAL FORFEITURE

1. The allegations of this Indictment are realleged and by this reference fully incorporated herein for the purpose of alleging forfeitures to the United States of America of certain property in which the defendant has an interest, pursuant to the provisions of Title 21, United States Code, Section 853.

2. Upon conviction of the violation alleged in this Indictment, the defendant shall forfeit to the United States any property constituting or derived from any proceeds which the defendant obtained, directly or indirectly, as the result of such violation, and any property which the defendant used or intended to be used in any manner or part to commit or to facilitate the commission of such violation.

All pursuant to Title 21, United States Code, Section 853.

A TRUE BILL

FOREPERSON

MARCOS DANIEL JIMENEZ
UNITED STATES ATTORNEY

JONATHAN M. F. LOO
ASSISTANT UNITED STATES ATTORNEY

AO 91 (Rev. 5/85) Criminal Complaint

United States District Court

Southern DISTRICT OF Florida

UNITED STATES OF AMERICA

V.

MEHRZAD ARBANE a/k/a "Tony"
a/k/a "El Turco"
a/k/a "Achi Saba"

(Name and Address of Defendant)

CRIMINAL COMPLAINT

CASE NUMBER: 03 2594 - STB

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about 12/23/01 through 1/8/02 in Miami-Dade county, in the Southern District of Florida defendant(s) did, (Track Statutory Language of Offense)

Knowingly and intentionally combine, conspire, and confederate to import into the United States a Schedule II controlled substance, that is, five kilograms or more of cocaine

in violation of Title 21 United States Code, Section(s) 963

I further state that I am a(n) _____ and that this complaint is based on the following
Official Title

facts:

See attached affidavit

Continued on the attached sheet and made a part hereof: [x] Yes [ ] No

Signature of Complainant

Sworn to before me and subscribed in my presence,

5-1-3 at Miami, Florida
Date City and State

Stephen T. Brown
United States Magistrate Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

This form was electronically produced by Elite Federal Forms, Inc.

md

AFFIDAVIT

I, David Picani, being duly sworn, depose and say:

1. Your affiant has been a Special Agent of the Bureau of Immigration and Customs Enforcement (BICE) for 2 months. Prior to that, your affiant was an Inspector and Senior Inspector with the United States Customs Service for 7 years and a Special Agent with the United States Customs Service for 1 year. During that time, your affiant has conducted criminal investigations involving drug trafficking. Your affiant has received extensive training through the BICE relating to the enforcement of the federal narcotics laws and the investigation of illegal drug operations as well as money laundering operations. Your affiant is familiar with the methods of drug organizations and their operations, the terminology used, and the scope of their influence over other people.

2. Unless otherwise stated, the information contained in this Affidavit is either personally known to me or was provided to me by other law enforcement officers, civilian witnesses, confidential informants, or was obtained from reviewing various documents and records as described herein. The information contained in this affidavit is submitted for the purpose of supplying probable cause for the issuance of a criminal complaint. As a result, it does not contain all of the information known regarding this investigation.

3. In October of 2001, BICE agents received information from a confidential source (CS) regarding an individual known to the CS as "Tony," "El Turco," or "Achi Saba." That individual was later identified as MEHRZAD ARBANE. According to the CS, ARBANE was involved in smuggling aliens from the Middle East through the tri-border area between Ecuador, Peru, and Colombia into Canada and then into the United States. According to the CS, ARBANE was also involved in smuggling cocaine from Ecuador through Mexico into the United States.

According to the CS, he and ARBANE, had discussed bringing a shipment of cocaine from Ecuador into the United States through Miami, Florida. The cocaine would be hidden behind a false wall at the front of a refrigerated shipping container full of seafood. According to the CS, the cocaine had been in Ecuador since early 2001. The CS further related to agents that because of the events of September 11, 2001, and an ongoing alien smuggling investigation involving ARBANE's business in New York, ARBANE was getting out of the alien smuggling business and was letting things cool off before attempting to move the cocaine.

4. Your affiant was able to determine that there was, in fact, an ongoing investigation in the fall of 2001 in the Northern District of New York focusing on ARBANE and a business owned by ARBANE called the Sunshine Market in Kingston, New York. That investigation was being conducted by the then Immigration and Naturalization Service. ARBANE was suspected of smuggling, harboring, and illegally employing aliens, and was questioned by agents during the course of the investigation. Your affiant has also verified that ARBANE was charged in a criminal complaint with harboring aliens, in violation of 8 U.S.C. § 1324(a)(1)(A)(iii). That criminal complaint was filed in the Northern District of New York on January 11, 2002.

5. In an attempt to further the narcotics investigation, the CS contacted ARBANE and engaged in a series of recorded telephone conversations and meetings with him in late 2001 and early 2002. On or about December 23, 2001, the CS met with ARBANE at the Miami Airport Hilton on Blue Lagoon Drive. That meeting was surveilled by agents and tape recorded. Among the things they discussed was the cocaine in Ecuador. ARBANE told the CS that he had to move Luis from there back to Venezuela because he was afraid Luis would say things. ARBANE told the CS that he left Jose and Javier over there. ARBANE expressed his desire to do something with that "shit we have over there." ARBANE agreed to "put it in" and the CS told him he had someone to "take

it out." When the CS told ARBANE that the price for "it" over here was "twenty," ARBANE agreed that the price was better here than over there. When the CS told ARBANE that he had someone to bring it, sell it, and give them the money in cash, ARBANE declined and said that he rather use "my guys." The CS and ARBANE then agreed to send the shipment in January. The CS told ARBANE that he needed ARBANE to get him the date, the name of the vessel, the contents of the container, and the shipping documents to fax to the CS's man who was going to get the container out of the port. ARBANE agreed but expressed concerns about the CS trying to find out his name. ARBANE expressed concern because if he was identified and implicated in alien smuggling, he could go away for ten years. The CS was able to calm ARBANE by reminding him of their past dealings in Mexico. ARBANE then expressed concern that "so much stuff is there" and stated that "I want to take that out fast." ARBANE then told the CS that he was incurring expenses to keep two guys at the house, that one of the two wanted to go back to Colombia, and that ARBANE offered to bring his family there to visit him. ARBANE told the CS that he would not burden him with that situation because he trusted the CS and "because we don't want to lose shit."

6. On or about January 6, 2002, the CS spoke to ARBANE again. This conversation was also recorded. During this conversation, ARBANE told the CS about the poor guy who had been there for a whole year and how his wife was going to leave him. ARBANE then told the CS that he was going over there tomorrow to take care of things that he needed "money to, how do you call it, load all those things. . . . " ARBANE told the CS that he would provide the CS with "all the paperwork" and that he would be contacting the CS to discuss the transportation fee that was to be paid to the man there because it was unclear to ARBANE from the last time he spoke to the CS.

7. On or about January 8, 2002, the Ecuadorian National Police executed a search at a residence occupied by ARBANE and a Colombian male identified as Edison Jose Lopez Posada

a/k/a Jose Joaquin Chacha Colcha. Inside closets in the residence, Ecuadorian National Police found approximately 261 kilograms of cocaine. The cocaine was tested by Ecuadorian National Police Laboratory and determined to be cocaine hydrochloride. ARBANE and Posada were placed under arrest by the Ecuadorian National Police upon discovery of the cocaine.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Special Agent David Picani
Bureau of Immigration and Customs Enforcement

Subscribed and sworn to before me this
1st day of April, 2003

MM

STEPHEN T. BROWN
UNITED STATES MAGISTRATE JUDGE

NIGHT BOX
FILED
AUG 12 2004
MABBOX
USDC/SDFL/MIA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

----------X

UNITED STATES OF AMERICA,
Plaintiff,

Vs. **Case No. 03-20765-Cr-UUB**

MEHRZAD ARBANE,
Defendant.

----------X

DEFENDANT'S OBJECTIONS TO PRESENTENCE INVESTIGATION REPORT

Defendant, Mehrzad Arbane, through his undersigned counsel, files objections to the Presentence Investigation Report (PSI) pursuant to S.D. Fl. L.R. 88.8 (AO 95-02), Rule 32, Fed. R. Crim. P. and the Fifth and Sixth Amendments to the US Constitution.

I.
FACTUAL OBJECTIONS

1. Defendant disputes and denies the allegations in the PSI (p. 4, para. 3) that he "was involved in smuggling aliens. . ." and that "Arbane was also involved in smuggling cocaine. . ." *Id.*

2. Defendant disputes and denies that "[t]he offense involved 261 kilograms of cocaine. . ." PSI (p. 5, para. 8)

II.
BASE OFFENSE LEVEL

3. Defendant disputes and denies that the BOL is 38 based on "150 kilograms or more of cocaine." PSI at p. 5, para. 12, 17, 20.

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III.
INCORPORATION BY REFERENCE OF *BLAKELY* CLAIMS

4. Defendant realleges and incorporates by reference the legal claims set forth in Defendant's Motion to Preclude

Respectfully submitted,

PROF. BENSON WEINTRAUB
Visiting Professor of Law
121 Hofstra University School of Law
Room 216
Hempstead, NY 11559

Service Address Through Sept. 1, 2004:

1 East Broward Blvd Suite 700
Ft. Lauderdale, FL. 33301
Tel. 954/713-8018
Fax 954/713-8019
lawbbw@hofstra.edu

By: _____
BENSON WEINTRAUB
FL. Bar No. 0486418

ROY KAHN, PA
Co-Counsel for Arbane
799 Brickell Ave. #606
Miami, FL. 33131-5198
Tel. 305/358-7400
Fax 305/358-7222

By: _____
ROY KAHN
FL. Bar. No. 224359

CERTIFICATE OF SERVICE

I CERTIFY that the foregoing pleading was delivered by mail this 12th day of August , 2004 to:

Silas Saunders, USPO
300 NE First Avenue #315
Miami, FL. 33128.

Richard D. Gregorie, AUSA
99 NE 4th Street
Miami, FL. 33132-2111

By: [illegible]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

UNITED STATES OF AMERICA	:	CRIMINAL NO._____
	:	GRAND JURY ORIGINAL
v.	:	
	:	
MEHRZAD ARBANE,	:	VIOLATIONS:
	:	
Defendant.	:	21 U.S.C. §963
	:	21 U.S.C. §959
	:	(Conspiracy to Manufacture and Distribute
	:	Five Kilograms or More of Cocaine
	:	Intending and Knowing that the Cocaine
	:	Will Be Unlawfully Imported into the
	:	United States)
	:	
	:	21 U.S.C. §959
	:	(Manufacture and Distribution of Five
	:	Kilograms or more of Cocaine for the
	:	Purpose of Unlawful Importation into the
	:	United States)
	:	
	:	18 U.S.C. § 2
	:	(Aiding and Abetting)
	:	
	:	21 U.S.C. §853
	:	21 U.S.C. §970
	:	(Forfeiture)
	:	

INDICTMENT

The Grand Jury charges that:

COUNT ONE

Beginning in or about September, 1999, and continuing thereafter up to and including January 8, 2002, the exact dates being unknown to the Grand Jury, in the United States, Ecuador,

and elsewhere, the defendant, **MEHRZAD ARBANE** did unlawfully, knowingly and intentionally combine, conspire, confederate and agree with other persons, known and unknown to the Grand Jury, to knowingly and intentionally manufacture and distribute five kilograms or more of a mixture and substance containing a detectable amount of cocaine, a Schedule II controlled substance, intending and knowing that such substance would be unlawfully imported into the United States, in violation of Title 21, United States Code, Section 959.

All in violation of Title 21, United States Code, Sections 963, 960(b)(1)(B)(ii), and 960(b)(1)G) and Title 18, United States Code, Sections 2 and 3551, et. seq.

COUNT TWO

On or about January 8, 2002, the defendant, **MEHRZAD ARBANE**, did unlawfully, knowingly and intentionally manufacture and distribute five kilograms or more of a mixture and substance containing a detectable amount of cocaine, a Schedule II controlled substance, intending and knowing that such substance would be unlawfully imported into the United States.

All in violation of Title 21, Untied States Code, Section 959(a) and Title 18, United States Code, Sections 2 and 3551, et. seq.

FORFEITURE - 21 USC §853

Upon conviction of the criminal violation alleged in Count One and Count Two of this Indictment, said offense being punishable by imprisonment for more than one year, the defendant, **MEHRZAD ARBANE** shall forfeit to the United States, pursuant to Title 21, United States Code, Sections 853 and 970, any and all respective right, title or interest which such defendant may have in (1) any and all money and/or property constituting, or derived from, any proceeds which such defendant obtained, directly or indirectly, as the result of the violations

alleged in Count One and Count Two of this Indictment; and (2) any and all property used, in any manner or part, to commit, or to facilitate the commission of, the violations alleged in Count One and Count Two of this Indictment.

If any of said forfeitable property, as a result of any act or omission of the defendant - -

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the Court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the said property. Criminal Forfeiture, in violation of Title 21, United States Code, Sections 853 and 970.

A TRUE BILL:

_____

FOREPERSON

_____

Kenneth Blanco, Chief
Narcotic and Dangerous Drug Section
Criminal Division
U.S. Department of Justice
Washington, D.C. 20530

Thomas Padden, Principal Deputy Chief
Narcotic and Dangerous Drug Section
Criminal Division
U.S. Department of Justice
Washington, D.C. 20530

Robert Spelke, Trial Attorney
Narcotic and Dangerous Drug Section
Criminal Division
U.S. Department of Justice
Washington, D.C. 20530

FILED
OCT - 4 2006
NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

vs.

Mehrzad Arbane

Registration No.

CRIMINAL NO: CR 06-280

DEFENDANT CONSENTS TO ENTRY OF DETENTION ORDER AND WAIVES WRITTEN FINDINGS (on the record)

ORDER

It is hereby ordered that the Defendant Mehrzad Arbane be committed to the custody of the Attorney General or a designated representative for confinement in the corrections facility separate, to the extent practical, apart from persons awaiting or serving sentences or being held in custody pending appeal. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. Upon order of a Court of the United States of America or at the request of the United States Attorney for the Government, the person in charge of the corrections facility shall deliver the Defendant to the United States Marshal for the purposes of an appearance in connection with a court proceeding.

SO ORDERED, this 4th day of October, 2006

DEBORAH A. ROBINSON
United States Magistrate Judge

1:06-cr-00280-ESH USA v. ARBANE
Date filed: 09/21/2006

Attorneys

Danielle Courtney Jahn
FEDERAL PUBLIC DEFENDER
625 Indiana Avenue, NW
Suite 550
Washington, DC 20004
(202) 208-7500
dani_jahn@fd.org
Assigned: 10/06/2006
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

representing **MEHRZAD ARBANE** (1) *(Defendant)*

Robert Andrew Spelke
U.S. DEPARTMENT OF JUSTICE

1400 New York Avenue, NW
Room 8304
Washington, DC 20005
(202) 353-3807
robert.spelke@usdoj.gov
Assigned: 09/21/2006
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

representing **USA** *(Plaintiff)*

PACER Service Center			
Transaction Receipt			
02/05/2007 18:50:43			
PACER Login:	ex0001	**Client Code:**	
Description:	Attorney List	**Search Criteria:**	1:06-cr-00280-ESH
Billable Pages:	1	**Cost:**	0.08

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went to Costa Rica to buy visas from the United States Embassy but did not get any because there were only visas for people with Hispanic surnames. He also recalled that in November or December of 2000, the defendant wanted to purchase an aircraft to smuggle aliens into the United States by flying them in to Opa Locka airport. The pilot he was going to use was an individual named Luis Castillo. He further recalled that in February of 2001, the defendant lost a pilot and some Chinese and Indian aliens who were arrested in Nicaragua. He recalled that the defendant usually traveled with $10,000 to $20,000 in cash and a $100,000 in traveler's checks. He recalled that the defendant was arrested once on his way to Costa Rica from Colombia for failing to declare $35,000 in currency and had to pay $10,000 to get out of jail. He recalled that in August of 2001, he met the defendant in Cancun, Mexico to obtain more false Canadian documents. The cooperating witness also recalled a meeting he had with the defendant in Mexico at a shopping mall shortly after 9/11 where the defendant expressed his fear that he may have smuggled two of the 9/11 hijackers into the United States and that he was going to hide out in Venezuela.

With respect to drug smuggling, the cooperating witness recounted the following. The cooperating witness was involved with the defendant in smuggling cocaine into the United States dating back to 2000. The cocaine was smuggled inside of checked luggage which was placed on board Ecuatoriana Airline flights from Ecuador to Mexico. The defendant had people who would get the bags on board the aircraft in Ecuador and people who would take the bags off in Mexico. The cocaine was then trucked across the United States border. When Ecuatoriana Airlines went out of business, the defendant purchased an aircraft and had cocaine flown on board the aircraft from Ecuador to Toluca, Mexico. The defendant and the cooperating witness shipped approximately 250 kilograms of cocaine every ten days within the tail cone of the aircraft. Once the cocaine arrived in Toluca, Mexico, it was transported inside of minivans across the border near Laredo, Texas and delivered to Miami and New York.

If you wish to discuss any of these matters, please do not hesitate to contact me at (305) 961-9272.

Very truly yours,

MARCOS DANIEL JIMENEZ
UNITED STATES ATTORNEY

By: _____
JONATHAN M. F. LOO
Assistant United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 03-20765-CR-UNGARO-BENAGES

UNITED STATES OF AMERICA	)
	)
v.	)
	)
MEHRZAD ARBANE	)
	)
Defendant.	)
	)

2004 MAR 12 PM 4:28

GOVERNMENT'S NOTICE OF INTENT TO INTRODUCE CERTAIN EVIDENCE

The United States, by and through the undersigned Assistant United States Attorney, hereby provides notice of evidence it intends to admit in its case-in-chief against Defendant Mehrzad Arbane. Out of an abundance of caution, the government notes that it does not consider the evidence set forth in Exhibit "A" to be covered by Rule 404(b) as the evidence is either necessary to complete the narrative of the charged offense or inextricably intertwined with the conspiracy charged in the indictment.

Respectfully submitted,

MARCOS DANIEL JIMENEZ
UNITED STATES ATTORNEY

By: _____
Richard D. Gregorie
Assistant United States Attorney
Florida Bar No. 549495
Barbara Lagoa
Assistant United States Attorney
Florida Bar No. 966990
99 N.E. 4th Street, 6th Floor
Miami, Florida 33132
Tel: (305) 961-9325
Fax: (305) 530-7976

33/3

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. Mail on this the 12th day of March, 2004, upon: ROY J. KAHN, Counsel for Defendant Mehrzad Arbane, 799 Brickell Plaza, Suite 606, Miami, FL 33131.

Barbara Lagoa
Assistant United States Attorney

U.S. Department of Justice

United States Attorney
Southern District of Florida

99 N.E. 4th Street
Miami, FL 33132
(305) 961-9006

February 25, 2004

Roy J. Kahn, Esquire
799 Brickell Avenue, Suite 606
Miami, Florida 33131

Re: United States v. Mehrzad Arbane
Case No. 03-20765-CR-UNGARO-BENAGES

Dear Mr. Kahn:

By this letter, the United States hereby gives notice of the following evidence. This evidence may be evidence under F.R.E. 404(b), although the United States is not willing to concede that point, and, rather, views this evidence as inextricably intertwined evidence which explains the relationship between the defendant and the cooperating witness and how they came to be involved with each other in the efforts to import the shipment of cocaine which was seized by the Ecuadorian National Police on January 8, 2002.

The cooperating witness met the defendant in Bogota, Colombia in February of 1999. He knew the defendant as "Tony" and knew him to have five or six false passports. He also knew the defendant to be involved in purchasing credit card numbers and encoding them on to blank cards. The cooperating witness initially purchased "half-price" airline tickets from the defendant.

The cooperating witness knew the defendant to be involved in both drug smuggling and alien smuggling. The aliens were brought from India and the Middle East to Ecuador and Paraguay. They were then smuggled into the United States through Cancun, Mexico, Mexico City, Mexico, and Canada. The defendant would provide the aliens with photo substituted Canadian passports and had immigration officials in Mexico who would pass the aliens through Mexico and stamp the passports. The cooperating witness also stated that the defendant had a Middle Eastern friend who owned a strip club in El Paso, Texas who would assist in getting the aliens across the border. The aliens were charged between $35,000 and $50,000 to be smuggled. The cooperating witness was also aware of the defendant's business/supermarket in Albany, New York.

The cooperating witness recalled one instance when he was given $10,000 by the defendant to bail out four aliens who had been arrested. He recalled an incident in the summer of 2000 when the defendant

went to Costa Rica to buy visas from the United States Embassy but did not get any because there were only visas for people with Hispanic surnames. He also recalled that in November or December of 2000, the defendant wanted to purchase an aircraft to smuggle aliens into the United States by flying them in to Opa Locka airport. The pilot he was going to use was an individual named Luis Castillo. He further recalled that in February of 2001, the defendant lost a pilot and some Chinese and Indian aliens who were arrested in Nicaragua. He recalled that the defendant usually traveled with $10,000 to $20,000 in cash and a $100,000 in traveler's checks. He recalled that the defendant was arrested once on his way to Costa Rica from Colombia for failing to declare $35,000 in currency and had to pay $10,000 to get out of jail. He recalled that in August of 2001, he met the defendant in Cancun, Mexico to obtain more false Canadian documents. The cooperating witness also recalled a meeting he had with the defendant in Mexico at a shopping mall shortly after 9/11 where the defendant expressed his fear that he may have smuggled two of the 9/11 hijackers into the United States and that he was going to hide out in Venezuela.

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If you wish to discuss any of these matters, please do not hesitate to contact me at (305) 961-9272.

Very truly yours,

MARCOS DANIEL JIMENEZ
UNITED STATES ATTORNEY

By: _____
JONATHAN M. F. LOO
Assistant United States Attorney

NICA ID: 5665225
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 03-20765-CR-UNGARO-BENAGES

UNITED STATES OF AMERICA	)
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v.	)
	)
MEHRZAD ARBANE	)
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Defendant.	)
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2004 MAR 12 PM 4: 2

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UNITED STATES ATTORNEY

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Barbara Lagoa
Assistant United States Attorney

U.S. Departm of Justice

United States Attorney
Southern District of Florida

99 N.E. 4th Street
Miami, FL 33132
(305) 961-9006

February 25, 2004

Roy J. Kahn, Esquire
799 Brickell Avenue, Suite 606
Miami, Florida 33131

Re: United States v. Mehrzad Arbane
Case No. 03-20765-CR-UNGARO-BENAGES

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Very truly yours,

MARCOS DANIEL JIMENEZ
UNITED STATES ATTORNEY

By: _____
JONATHAN M. F. LOO
Assistant United States Attorney

Initial indictment

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

Sworn in on June 11, 2001

UNITED STATES OF AMERICA	:	**CRIMINAL NO. :** 02-030
	:	
v.	:	**Grand Jury Original**
	:	
MOHAMMED HUSSEIN ASSADI, also known as. ANTONIO SAADY, and as ANTONIO ROOSEVELT CHOEZ ARREAGA, and as ANTONIO	:	**VIOLATIONS:**
	:	
	:	**8 U.S.C. §§1324(a)(1)(A)(iv), (a)(1)(B)(ii) (Encouraging or Inducing Aliens to Come to, Enter, or Reside in the United States)**
	:	
Defendant.	:	**8 U.S.C. §§1324(a)(1)(A)(v)(II), (a)(1)(B)(ii) (Aiding and Abetting)**

RECEIVED
JAN 24 2002
NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

INDICTMENT

The Grand Jury charges that:

COUNT ONE

On or about January 17, 2002, in the country of Colombia, and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendant, **MOHAMMED HUSSEIN ASSADI,** also known as Antonio Saady, and as Antonio Roosevelt Choez Arreaga, and as Antonio, knowingly did encourage and induce aliens to come to,

enter, and reside in the United States, knowing and in reckless disregard of the fact that such coming to, entry, and residence is or will be in violation of law.

(**Encouraging or Inducing Aliens to Come to, Enter, or Reside in the United States**, in violation of Title 8, United States Code, Section, 1324 (a)(1)(A)(iv), (a)(1)(B)(ii), and **Aiding and Abetting,** in violation of Title 8, United States Code, Section 1324(a)(1)(A)(v)(II), (a)(1)(B)(ii)) .

A TRUE BILL

FOREPERSON

Roscoe C. Howard, Jr. /JB

Attorney of the United States in
and for the District of Columbia

Superseding indictment

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

Sworn in on June 11, 2001

UNITED STATES OF AMERICA	:	**CRIMINAL NO. : 02-030 (JR)**
	:	
v.	:	**VIOLATIONS:**
	:	
MOHAMMED HUSSEIN ASSADI, also known as ANTONIO SAADY, and as ANTONIO ROOSEVELT CHOEZ ARREAGA, and as "ANTONIO", and as "MIKE", and as "MARIO",	:	**8 U.S.C. §§1324(a)(1)(A)(iv), (a)(1)(A)(v)(1), and (a)(1)(B)(i) (Conspiracy to Commit Alien Smuggling)**
	:	
Defendant.	:	**8 U.S.C. §§1324(a)(1)(A)(iv), (a)(1)(B)(ii) (Encouraging or Inducing Aliens to Come to, Enter, or Reside in the United States, for Financial Gain)**
	:	**8 U.S.C. §1324(a)(1)(A)(v)(II) (Aiding and Abetting)**
	:	
	:	**8 U.S.C. §§1324 (a)(2), (a)(2)(B)(ii) (Bringing and Attempted Bringing of Unauthorized Aliens for Financial Gain)**

INDICTMENT

The Grand Jury charges that:

COUNT ONE

General Allegations

At all times relevant to this Indictment:

1. The defendant, **MOHAMMED HUSSEIN ASSADI,** also known as Antonio Saady, and as Antonio Roosevelt Choez Arreaga, and as "Antonio", and as "Mike", and as "Mario", was a citizen of Iran residing in Ecuador, with no known residence in the United States.

2. The defendant **MOHAMMED HUSSEIN ASSADI** was engaged in the business of smuggling aliens, including particularly citizens of Iraq and its neighboring countries, into the United States for commercial advantage and private financial gain.

3. An associate of the defendant **MOHAMMED HUSSEIN ASSADI**, referred to herein as " A.F.", operated in Jordan and Ecuador as a recruiter of aliens to be smuggled by the defendant.

4. An associate of the defendant **MOHAMMED HUSSEIN ASSADI**, referred to herein as "A.S.", served as a recruiter and middleman in Ecuador for the defendant.

5. An associate of the defendant **MOHAMMED HUSSEIN ASSADI**, referred to herein as "M.I.", served as a middleman in Ecuador for the defendant.

6. It was generally difficult for citizens of Iraq to obtain United States visas.

7. Lawful holders of visas of certain European countries could generally enter the United States without first obtaining United States visas.

8. Individuals referred to herein as "A-1", "A-2", "B", "C", "D", "E", "F-1" "F-2", "F-3", and "F-4", whose identities are known to the Grand Jury, were and are citizens of Iraq who sought to come into the United States illegally.

The Conspiracy

9. From in or about November 1999 through on or about January 24, 2002, in Ecuador, Colombia, Venezuela, and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendant **MOHAMMED HUSSEIN ASSADI** knowingly and unlawfully did combine, conspire, confederate, and agree

with other persons, both known and unknown to the Grand Jury, knowingly to, for the purpose of commercial advantage and private financial gain, encourage and induce one or more aliens to come to, enter, and reside in the United States, knowing and in reckless disregard of the fact that such coming to, entry, and residence would be in violation of law, in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(iv) and (a)(1)(B)(i).

Object of the Conspiracy

10. The object of the conspiracy was to make money by smuggling aliens – including "A-1", "A-2", "B", "C", "D", "E", "F-1", "F-2", "F-3", and "F-4" – into the United States.

Manner and Means of the Conspiracy

11. It was part of the conspiracy that the defendant **MOHAMMED HUSSEIN ASSADI** and his coconspirators would and did recruit aliens, in Jordan, in Ecuador, and elsewhere, to be taken to the United States in exchange for the payment, or promised payment, of money.

12. It was a further part of the conspiracy that the defendant **MOHAMMED HUSSEIN ASSADI** would and did conduct his alien smuggling business through the use of a loose network of associates, with whom he shared the money obtained through their alien smuggling activities; the makeup of the group of associates who participated in smuggling any particular alien or group of aliens depended upon the manner in which the aliens were recruited and the specific arrangements made to transport them to the United States.

13. It was a further part of the conspiracy that the defendant **MOHAMMED HUSSEIN ASSADI** would and did maintain relations with other principal alien smugglers in Ecuador and elsewhere, to whom he would at times refer – and from whom he would receive as

referrals – aliens to be smuggled, depending upon the particular circumstances at the time.

14. It was a further part of the conspiracy that the defendant **MOHAMMED HUSSEIN ASSADI** and his coconspirators would and did make it known that aliens from Iraq and elsewhere should travel to Ecuador to meet with the defendant **MOHAMMED HUSSEIN ASSADI** and his coconspirators and arrange with them to be smuggled into the United States in exchange for payments to the defendant and his associates.

15. It was a further part of the conspiracy that the defendant **MOHAMMED HUSSEIN ASSADI** and his coconspirators would and did collect money from aliens and their families for alien smuggling services.

16. It was a further part of the conspiracy that the defendant **MOHAMMED HUSSEIN ASSADI** would and did use various names, not his own true name, in conducting his alien smuggling activities in order to avoid detection and apprehension.

17. It was a further part of the conspiracy that the defendant **MOHAMMED HUSSEIN ASSADI** and his coconspirators would and did obtain stolen European passports, remove the photos of their lawful bearers, and replace them with photos of the aliens to be smuggled.

18. It was a further part of the conspiracy that the defendant **MOHAMMED HUSSEIN ASSADI** and his coconspirators would and did use wet- and dry-stamps to alter stolen European passports.

19. It was a further part of the conspiracy that the defendant **MOHAMMED HUSSEIN ASSADI** and his coconspirators would and did give stolen and falsified European passports to aliens.

20. It was a further part of the conspiracy that the defendant **MOHAMMED HUSSEIN ASSADI** and his coconspirators would obtain and give to each alien airline tickets to the United States, and boarding passes, issued in the names appearing on the stolen and falsified European passports given to the alien.

21. It was a further part of the conspiracy that the defendant **MOHAMMED HUSSEIN ASSADI** would and did instruct aliens to alter their appearance to conform to the stolen and falsified European passports given to them.

22. It was a further part of the conspiracy that the defendant **MOHAMMED HUSSEIN ASSADI** would and did instruct aliens to carry nothing identifying them as Arab while traveling to the United States.

23. It was a further part of the conspiracy that the defendant **MOHAMMED HUSSEIN ASSADI** would and did instruct aliens to destroy and discard the stolen and falsified European passports given to them, and the airline tickets and boarding passes in the false names, while in the air en route to the United States.

24. It was a further part of the conspiracy that the defendant **MOHAMMED HUSSEIN ASSADI** and his coconspirators would and did assemble individual aliens and groups of aliens, for illegal entry into the United States.

25. It was a further part of the conspiracy that the defendant **MOHAMMED HUSSEIN ASSADI** and his coconspirators would and did take steps to conceal and maintain the secrecy of their alien smuggling activities to protect themselves from prosecution and to permit them to continue to engage in alien smuggling.

Overt Acts

26. In furtherance of the conspiracy, and to effect the object of the conspiracy, the defendant **MOHAMMED HUSSEIN ASSADI** and one or more of his coconspirators committed the following overt acts, among others:

Overt Acts Particularly Related to Alien "A-1"

1) On or about December 10, 1999, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** met with "A-1".

2) On or about December 10, 1999, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** told "A-1" that he had connections with a person who was responsible for the airline tickets and boarding passes.

3) On or about March 1, 2000, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** met with his associate "A.S." and with "A-1" near the airport.

4) On or about March 1, 2000, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** gave to "A-1" a European passport bearing a photo of "A-1", an airline ticket, and a boarding pass.

5) On or about March 1, 2000, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** gave instructions to "A-1".

6) On or about March 1, 2000, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** took from "A-1" an Arabic notebook.

7) On or about March 1, 2000, in Quito, Ecuador, after "A-1"'s initial attempt to depart Ecuador failed, the defendant **MOHAMMED HUSSEIN ASSADI** took back the European passport.

8) On or about March 3, 2000, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** met with his associate "A.S." and with "A-1" near the airport.

9) On or about March 3, 2000, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** gave to "A-1" the European passport, on which a date had been altered, and a new airline ticket and boarding pass.

10) On or about March 3, 2000, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** gave instructions to "A-1".

Overt Acts Particularly Related to Alien "B"

11) In or about late July to early August 2000, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** met with his associate "M.I." and with "B".

12) In or about late July to early August 2000, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** instructed that "B" shave his moustache.

13) In or about late July to early August 2000, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** instructed that "B"'s wife dye her hair blonde.

14) In or about late July to early August 2000, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** instructed that "B"'s son obtain a European haircut.

15) On or about August 15, 2000, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** possessed three European passports bearing the photos of "B" and the wife and son of "B".

Overt Acts Particularly Related to Alien "C"

16) In or about early-mid April 2001, in Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** met with his associate "A.F." and with "C".

17) In or about early-mid April 2001, in Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** directed that "C" have passport photos taken.

18) In or about early-mid April 2001, in Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** spoke by telephone with the sister and brother-in-law of "C".

19) On or about April 28, 2001, in Ecuador the defendant **MOHAMMED HUSSEIN ASSADI** obtained $2,500 from "C".

20) On or about April 30, 2001, in Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** obtained $2,000 from "C".

21) In or about May 2001, in Bogota, Colombia, the defendant **MOHAMMED HUSSEIN ASSADI** met with "C".

22) In or about May 2001, in Bogota, Colombia, the defendant **MOHAMMED HUSSEIN ASSADI** obtained $3,000 from "C".

23) On or about early September 2001, in Bogota, Colombia, the defendant **MOHAMMED HUSSEIN ASSADI** obtained $1,000 from "C".

24) On or about September 5, 2001, the defendant **MOHAMMED HUSSEIN ASSADI** transported "C" from Bogota, Colombia, to Maracaibo, Venezuela.

25) On or about September 6, 2001, in Maracaibo, Venezuela, the defendant **MOHAMMED HUSSEIN ASSADI** gave to "C" round-trip airline tickets to Miami, Florida.

26) On or about September 6, 2001, in Maracaibo, Venezuela, the defendant **MOHAMMED HUSSEIN ASSADI** gave boarding passes to "C" and two other Iraqi aliens.

27) On or about September 6, 2001, in Maracaibo, Venezuela, the defendant **MOHAMMED HUSSEIN ASSADI** gave instructions to "C".

28) On or about September 7, 2001, in Maracaibo, Venezuela, the defendant **MOHAMMED HUSSEIN ASSADI** accompanied "C" and two other Iraqi aliens to the airport and directed them to the departure area.

Overt Acts Particularly Related to Alien "D"

29) In or about February 2001, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** met with "D".

30) In or about February 2001, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** instructed "D" to bring photographs that the defendant would use to make a passport for him.

31) In or about February 2001, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** demanded $4,000 to $6,000 from "D".

32) In or about July 2001, in Guayaquil, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** arranged for "D" to stay at a hotel.

33) In or about July 2001, in Guayaquil, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** obtained a $2,000 down payment from "D".

34) In or about July 2001, in Guayaquil, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** gave to "D" a European passport, airline tickets, and a boarding pass.

35) In or about July 2001, in Guayaquil, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** arranged for an attorney to help "D" get out of jail.

Overt Acts Particularly Related to Alien "E"

36) In or about late January 2001, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** met with his associate "A.L" and with "E".

37) In or about late January 2001, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** demanded $8,000 to smuggle "E" into the United States.

Overt Acts Particularly Related to Aliens "F-1", "F-2", "F-3", and "F-4"

38) In or about November 2001, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** met with "F-1".

39) In or about November 2001, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** demanded $21,000 to smuggle "F-1", "F-2", "F-3", and "F-4" into the United States.

40) In or about November 2001, in Quito, Ecuador, the defendant **MOHAMMED HUSSEIN ASSADI** agreed to accept $18,000 to smuggle "F-1", "F-2", "F-3", and "F-4" into the United States.

41) In or about November 2001, the defendant **MOHAMMED HUSSEIN ASSADI** transported "F-1", "F-2", "F-3", and "F-4" to Pastor, Colombia.

42) In or about January 2002, in Colombia, the defendant **MOHAMMED HUSSEIN ASSADI** obtained $7,000 from "F-1".

43) On or about January 14, 2002, the defendant **MOHAMMED HUSSEIN ASSADI** transported "F-1", "F-2", "F-3", and "F-4" to Cali, Colombia.

44) On or about January 17, 2002, in Cali, Colombia, the defendant **MOHAMMED HUSSEIN ASSADI**, with an associate, transported "F-1", "F-2", "F-3", and "F-4" to the airport.

45) On or about January 17, 2002, at the Cali, Colombia, airport, the defendant **MOHAMMED HUSSEIN ASSADI** possessed falsified European passports bearing photographs of "F-1", "F-2", "F-3", and "F-4".

46) On or about January 17, 2002, at the Cali, Colombia, airport, the defendant **MOHAMMED HUSSEIN ASSADI** possessed four airline tickets to Miami issued in the names of the four persons named in the falsified European passports bearing photographs of "F-1", "F-2", "F-3", and "F-4".

47) On or about January 17, 2002, at the Cali, Colombia, airport, the defendant **MOHAMMED HUSSEIN ASSADI** possessed wet- and dry-stamps corresponding to imprints in the falsified European passports.

(**Conspiracy to, for Financial Gain, Induce Aliens to Come to the United States**, in violation of Title 8, United States Code, Sections 1324 (a)(1)(A)(iv), (a)(1)(A)(v)(I), and (a)(1)(B)(i)).

COUNTS TWO THROUGH ELEVEN

1. The Grand Jury realleges and incorporates by reference paragraphs 1 through 8 and 11 through 26 of COUNT ONE of this Indictment.

2. Beginning in or about the following dates and continuing until on or about the following dates, in the country of Ecuador, and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendant, **MOHAMMED HUSSEIN ASSADI,** also known as Antonio Saady, and as Antonio Roosevelt Choez Arreaga, and as "Antonio", and as "Mike", and as "Mario", knowingly did encourage and induce the following aliens to come to, enter, and reside in the United States, knowing and in reckless disregard of the fact that such coming to, entry, and residence is or will be in violation of law:

COUNT	ALIEN	BEGINNING DATE	ENDING DATE
2	**"A-1"**	**NOVEMBER 1999**	**MARCH 3, 2000**
3	**"A-2"**	**NOVEMBER 1999**	**APRIL 4, 2000**
4	**"B"**	**JULY 15, 2000**	**AUGUST 15, 2000**
5	**"C"**	**APRIL 2001**	**SEPTEMBER 7, 2001**
6	**"D"**	**FEBRUARY 2001**	**JULY 2001**
7	**"E"**	**JANUARY 13, 2001**	**JANUARY 31, 2001**
8	**"F-1"**	**NOVEMBER 2001**	**JANUARY 17, 2002**
9	**"F-2"**	**NOVEMBER 2001**	**JANUARY 17, 2002**

10	**"F-3"**	**NOVEMBER 2001**	**JANUARY 17, 2002**
11	**"F-4"**	**NOVEMBER 2001**	**JANUARY 17, 2002**

(**Encouraging or Inducing Aliens to Come to, Enter, or Reside in the United States, For Financial Gain**, in violation of Title 8, United States Code, Section, 1324 (a)(1)(A)(iv), (a)(1)(B)(ii), and **Aiding and Abetting,** in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(v)(II), (a)(1)(B)(ii)) .

COUNTS TWELVE THROUGH NINETEEN

1. The Grand Jury realleges and incorporates by reference paragraphs 1 through 8 and 11 through 26 of COUNT ONE of this Indictment.

2. Beginning in or about the following dates and continuing until on or about the following dates, in the country of Ecuador, and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendant, **MOHAMMED HUSSEIN ASSADI,** also known as Antonio Saady, and as Antonio Roosevelt Choez Arreaga, and as "Antonio", and as "Mike", and as "Mario", and others whose identities are known and unknown to the Grand Jury, for the purpose of commercial advantage and private financial gain, knowing and in reckless disregard of the fact that said aliens had not received prior official authorization to come to, enter, and reside in the United States, did bring and attempt to bring to the United States, by certain manners, the following aliens.

COUNT	ALIEN	BEGINNING DATE	ENDING DATE
12	**"A-1"**	**NOVEMBER 1999**	**MARCH 3, 2000**
13	**"A-2"**	**NOVEMBER 1999**	**APRIL 4, 2000**

14	**"C"**	**APRIL 2001**	**SEPTEMBER 7, 2001**
15	**"D"**	**FEBRUARY 2001**	**JULY 2001**
16	**"F-1"**	**NOVEMBER 2001**	**JANUARY 17, 2002**
17	**"F-2"**	**NOVEMBER 2001**	**JANUARY 17, 2002**
18	**"F-3"**	**NOVEMBER 2001**	**JANUARY 17, 2002**
19	**"F-4"**	**NOVEMBER 2001**	**JANUARY 17, 2002**

(Bringing and Attempted Bringing of Unauthorized Aliens for Financial Gain, in violation of Title 8, United States Code, Section 1324 (a)(2), (a)(2)(B)(ii)).

A TRUE BILL

FOREPERSON

Roscoe C. Howard, Jr. / DM
Attorney of the United States in
and for the District of Columbia

U.S. Department of Justice

Roscoe C. Howard, Jr.
United States Attorney for the District of Columbia

Judiciary Center
555 Fourth St. N.W.
Washington, D.C. 20001

PRESS RELEASE

FOR IMMEDIATE RELEASE
Thursday, October 3, 2002

For Information Contact Public Affairs
Channing Phillips (202) 514-6933

Iranian Convicted of Running Profitable Alien Smuggling Operation in South America

Washington, D.C. -United States Attorney Roscoe C. Howard, Jr., Assistant Attorney General Michael Chertoff, and Warren A. Lewis, District Director for the Washington, D.C. District, Immigration and Naturalization Service (INS), jointly announced that late yesterday, October 2, 2002, a United States District Court jury found Mohammed Hussein Assadi guilty of thirteen counts of illegally smuggling aliens from Iraq to the United States through Ecuador and Colombia. Sentencing is set before the Honorable James Robertson on December 17, 2002, at which time the defendant faces a maximum possible sentence of 150 years in prison.

United States Attorney Howard heralded the conviction, noting that, "we are a nation of immigrants. But for the sake of fairness, and for our national security, it is important that our immigration be orderly, based on accurate information about who seeks to come to the United States and for what purpose. What Assadi and other alien smugglers do is subvert that process, and exploit the people they try to smuggle into the United States. The jury's guilty verdicts in the Assadi case should send a message that we are committed to apprehending alien smugglers and prosecuting them."

Assistant Attorney General Chertoff added, "these cases serve as examples of our intention and ability to aggressively prosecute alien smugglers, even those who operate outside our borders. We will continue to utilize our resources and work together with other governments to dismantle these criminal organizations where they operate."

Assadi, 34, is an Iranian national whose last known residence is Ecuador. He was detained in Colombia for possession of false passports and was deported; when his flight stopped through Miami International Airport, in Florida, on January 24, 2002, he was arrested on the alien smuggling offenses with which he was charged by Indictment returned in Washington, D.C., earlier that day.

Warren A. Lewis, INS Washington District Director stated, "the success of this particular investigation is attributed to the partnership of the INS Mexico and Washington District Offices to aggressively initiate investigations to dismantle criminal organizations involved in smuggling special interest aliens into the United States."

According to the evidence presented at trial, in late 1997, Assadi became involved in smuggling aliens – mainly from Middle East countries – using commercial airlines operating from Ecuador, Colombia, and Venezuela to the United States. Using a loose network of associates, Assadi would recruit his "customers" in the Middle East or after they arrived in Ecuador, and for fees of up to $8,000 per alien would provide them with stolen and altered European passports – which do not require visas for entry into the United States – and round-trip airline tickets to the United States in the names on the fraudulent passports. He would substitute the aliens' photos for those of the original passports' bearers, and instruct the aliens to alter their appearances to conform to the passports' nationalities.

Assadi himself would transport the aliens to the airports, or meet them there, and direct them

through the boarding process, and in particular through airport officials whom he bribed to pass the aliens along. He instructed the aliens to not carry any items identifying them as Arab, and to destroy the fraudulent passports and tickets while in the air en route to the United States. Finally, he instructed them to hide in the arrival area of the United States airport, and to surrender to United States Immigration and Naturalization Service (INS) authorities without disclosing either their true place of origin or Assadi's role in getting them to the United States. Under well-known INS administrative procedures, the aliens would be highly likely to be provisionally released pending removal proceedings, enabling them to remain in the United States at least for some time and, if a political asylum claim were made, potentially permanently.

The jury heard testimony from numerous Iraqi aliens whom Assadi had smuggled, or attempted to smuggle, to the United States in this way. The jury also heard testimony from Maher Jarad, 35, of Jordan, who was an associate of Assadi's in Ecuador, and who himself was arrested on alien smuggling charges in Washington, D.C. Jarad testified after having entered a plea of guilty to an alien smuggling conspiracy on September 10, 2002, arising from his involvement in the February 2002, attempt to ship numerous persons from Iraq and Central America by boat from Ecuador to Guatemala, to be smuggled overland into the United States via Mexico. Jarad will be sentenced, on a date not yet set, by the Honorable Henry H. Kennedy, Jr.

In announcing the verdicts, Assistant Attorney General Chertoff, United States Attorney Howard, and District Director Lewis praised the outstanding investigative work of Special Agents Donald L. Bruckschen, Lloyd L. Temple, and Tony Wilks, and other agents of the INS Investigations Division's Washington, D.C., and Mexico City District Offices. They also expressed appreciation for the support of the Justice Department's Alien Smuggling Task Force, and particularly

commended the work of Assistant United States Attorney Laura A. Ingersoll and Department of Justice Alien Smuggling Task Force Trial Attorney William Ho-Gonzalez, who prosecuted the case.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	:	
	:	
v.	:	**CRIMINAL NO. 02-030 (JR)**
	:	
MOHAMMED HUSSEIN ASSADI,	:	
	:	
Defendant.	:	

GOVERNMENT'S MOTION FOR UPWARD DEPARTURE, AND
MEMORANDUM IN AID OF SENTENCING, WITH POINTS AND AUTHORITIES

The defendant, Mohammed Hussein Assadi, faces sentencing on seven of the charges of which a jury has found him guilty: six counts of, for financial gain, illegally encouraging and inducing aliens to come to, enter, and reside in the United States, and of one count of conspiracy to so encourage and induce aliens. The conspiracy count carries a potential term of imprisonment of up to ten years; the six substantive counts each carry potential terms of up to five years of imprisonment. Under the appropriate grouping analysis, the United States Probation Office has calculated the United States Sentencing Guidelines (U.S.S.G.) level applicable to the defendant, Mohammed Hussein Assadi, to be 19, and his Criminal History Category to be I, resulting in a sentencing range of 30-37 months imprisonment. The government concurs in this calculation, but submits that the defendant's conduct is of such a nature and extent as to take him out of the "heartland" of the applicable Sentencing Guidelines scheme, and that the Court can and should depart upward by five (5) levels and accordingly impose a sentence in the range of 51 to 63 months. In addition, the government submits that the Court should not apply the reasoning of United States v. Smith, 27 F.3d 649 (D.C. Cir. 1994), to give the defendant the benefit of a downward departure, worth up to six (6) months, based on nothing more than his status as a deportable alien. The defendant has already served approximately eleven months imprisonment.

I. The defendant's conduct warrants an upward departure because it falls outside the "heartland" of the Sentencing Guidelines.

In the indictment on which he stood trial, the defendant Mohammed Hussein Assadi was charged with smuggling ten named aliens into the United States. The jury found him guilty of smuggling charges relating to six of the aliens, and was unable to reach a verdict as to a seventh alien. The jury heard extensive testimony, however, from several of Assadi's associates and clients describing the full nature and extent of Assadi's smuggling activities. In short, there was evidence at trial that he had operated his lucrative alien smuggling business in Ecuador since the mid-late 1990s, and that he had been responsible for illegally moving hundreds of aliens – primarily if not exclusively from the Middle East – through Latin America into the United States. Each of the alien witnesses who testified described numerous other persons (principally adult males) from the Middle East who met and did business with Assadi. His erstwhile associate Maher Jarad, as well as the confidential informant Jamal Suleiman, described Assadi's prominent role among the numerous smugglers who competed for the role as successor to the legendary alien smuggler George Tajirian after the latter's arrest in 1997. And with respect to the three aliens who testified at trial about their dealings with Assadi, but as to whom the jury did not return guilty verdicts against Assadi for smuggling them, the governments submits there was sufficient evidence – under the applicable preponderance standard – for the Court to find that Assadi's conduct spanned them as well.

In addition, the evidence at trial clearly showed that Assadi was driven in his illicit business purely by monetary gain, and exercised no discretion at all with respect to the character or potential motives of those whom he helped smuggle into the United States.

Moreover, the government has very recently received information showing that Assadi has been engaged in this same type of trafficking in illegally documented aliens over a span of fifteen years – that is, his entire adult life. The information, provided by INTERPOL in Zagreb, Croatia, based on a fingerprint check conducted at the request of the United States Immigration and Naturalization Service, demonstrates that the same Mohammed Assadi who is the subject of the instant case was fingerprinted in Zagreb on October 28, 1987, when he was detained for illicit border crossing, and he was "banned entry into Croatia" on grounds of "suspicion of document forgery and illegal transfer of Iranians to West European countries." INTERPOL Zagreb cable to INTERPOL Washington, 12/16/02 (attached hereto). Assadi's persistent protestations to the contrary, he is demonstrably a seasoned veteran in the illicit business of international alien smuggling, and his sentence should reflect that history.

Finally, it is noteworthy that the Court has no applicable available sanction against Assadi for his crimes, apart from imprisonment. He has no known or suspected assets in the United States. He does not have (and is likely to never have) any legal residency status in the United States so as to be able to reside here and do community service. Incarceration is the only sentencing option available to the Court.

For all these reasons, Assadi's extensive and grave conduct falls well outside the heartland of criminal conduct contemplated by the applicable sentencing guideline – as articulated in U.S.S.G. §5K2.0, Grounds for Departure (Policy Statement) – and the court can and should depart upward in reaching an appropriate sentence in this case. The government submits that the appropriate sentence would be at level 24, in the range of 51 to 63 months.

II. The Defendant's status as a deportable alien does not entitle him to a downward departure.

The Probation Office has suggested that the defendant may be entitled to a *downward* departure based on his status as a deportable alien, pursuant to United States v. Smith, 27 F.3d 649 (D.C. Cir. 1994). The government strongly objects to such a downward departure, as unsupported by law or logic.

Smith involved an illegal alien sentenced to 70 months of incarceration for possession with intent to distribute cocaine base, who appealed after the district court judge imposed the lowest available term of incarceration and indicated a desire to reduce the sentence even further but stated that she could not do so because "I really don't see any basis for departure." On appeal, the panel considered the fact that the Bureau of Prisons does not make available to deportable aliens a "transition" phase of imprisonment, as provided for in 18 U.S.C. §3624(c), in which prisoners are moved to a community confinement facility for the last 10% of their terms (not to exceed six (6) months). Two of the three panel members held that a downward departure "may be appropriate where the defendant's status as a deportable alien is likely to cause a fortuitous increase in the severity of his sentence" but declined to rule whether such a departure was appropriate in the Smith's case, instead remanding the case for resentencing. 27 F.3d at 655-56. In a lengthy and strongly-worded dissent, Judge Sentelle examined "the majority's decision that the status of being an illegal alien is a mitigating circumstance" despite the fact that it was never declared such by the Sentencing Commission, and declared that "the majority's reasoning . . . is fundamentally flawed . . . [and] the result it reaches in this case is utterly indefensible." 27 F.3d at 661. After reviewing data regarding the relatively large number of illegal immigrants in the

United States and the large numbers of those who had been jailed for crimes, Judge Sentelle noted that: "It may well be for this reason that every circuit court of appeals to address the issue has determined that the collateral consequences that may attach to one's 'status' as a deportable alien, including ineligibility for less restrictive terms of confinement, cannot justify a downward departure from the applicable sentencing guidelines range." 27 F.3d at 668 (citations omitted). Even the majority in Smith noted that any departure, including one based on deportability, should be granted only when the greater severity is undeserved and should be "highly infrequent." 27 F.3d at 655. Indeed, Smith is a very carefully limited decision and, as Judge Sentelle observed, is a decision that stands virtually alone among other circuits considering such a departure. It is also noteworthy that in the more than eight years since Smith was decided the Sentencing Commission has not taken steps to specify that alienage may be a factor considered in mitigation at sentencing.

Furthermore, the government submits that in this particular case, a downward departure from the normal guideline range based solely on the defendant's alien status would be inappropriate in the case of alien smuggling because a great portion of persons sentenced under that guideline – particularly in the case of extraterritorial violations, such as Assadi's – would likely be deportable aliens, a fact of which the Sentencing Commission had to be aware.[1]

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[1] A recent case explains why other jurisdictions have recognized that alienage and deportability are not appropriate bases for departure, especially from the guideline relating to reentry of illegal aliens. The Court of Appeals for the First Circuit, in United States v. Vasquez, 279 F.3d 77 (1st Cir. 2002), stated that in an illegal reentry case, where the only persons sentenced under the applicable sentencing guideline would be deportable aliens,

> . . . common sense dictates that such status must have been weighed by the Sentencing Commission in formulating USSG §2L1.2 and setting the attendant offense levels. This means, of course, that far from being a special, unusual, or atypical feature of an illegal reentry case, susceptibility to deportation is a common thread that runs through all such cases, Without more, this circumstance

Moreover, even under Smith, a defendant must demonstrate that he would necessarily – and in fact – be subject to substantially more severe conditions for a substantial period of his sentence than he would if he were not subject to deportation. 27 F.3d at 205. A departure is justified only if the Court is confident that the greater severity is undeserved and is solely on account of his alienage. Id. Courts in this jurisdiction do not automatically apply a Smith departure for aliens where it is not deserved. See United States v. Leandre, 132 F.3d 796, 808 (D.C. Cir.), cert. denied, 523 U.S. 1131 (1998).

Finally, minimum-security confinement is not an "offset" for a period of incarceration, but rather is a period of pre-release custody that serves legitimate societal objectives regarding a person's reentry into the community after confinement. As Assadi will be immediately deportable upon release from prison, there will be no community – within the meaning of the 18 U.S.C. §3624(c) – for him to reenter. Moreover, Assadi is a heightened flight risk due to his complete lack of community ties and utter lack of any length of residency in the area – or, indeed, in the United States. It is these factors – quite apart from his alienage – that will make him ineligible for minimum-security pre-release custody.

> (and by extension, the collateral consequences that flow from it) is insufficient to take an illegal reentry case out of the heartland associated with USSG §2L1.2.

Id. at 81. See also United States v. Martinez-Carillo, 250 F.3d 1101, 1106-07 (7th Cir.), cert. denied, 122 S. Ct. 285 (2001); United States v. Cardosa-Rodriguez, 241 F.3d 613, 614 (8th Cir. 2001); United States v. Garay, 235 F.3d 230, 232-34 (5th Cir. 2000), cert. denied, 532 U.S. 986 (2001); United States v. Martinez-Ramos, 184 F.3d 1055, 1057-59 (9th Cir. 1999); United States v. Ebolum, 72 F.3d 35, 37-39 (6th Cir. 1995).

Conclusion

For the foregoing reasons, the United States respectfully requests that the Court decline to award the defendant a downward departure based upon his status as a deportable alien, and further requests that the Court depart upward by five (5) levels from the applicable Sentencing Guidelines level of 19, and impose a sentence at the high end of the resulting offense level of 24, that is, between 51 and 63 months.

Respectfully submitted,

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Certification

I hereby certify that a copy of the foregoing was served by fax upon counsel for the defendant, David Bos, Assistant Federal Public Defender, Office of the Federal Public Defender, 625 Indiana Avenue, N.W., Washington, D.C. 20004, this 16th day of December, 2002.

_____

Laura A. Ingersoll
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	
	:	
v.	:	**Criminal No. 02-030 (JR)**
	:	
MOHAMMED HUSSEIN ASSADI,	:	
	:	
Defendant	:	

GOVERNMENT'S TRIAL MEMORANDUM

The defendant Mohammed Hussein Assadi (hereinafter "Assadi") is charged by indictment with one count of engaging in an alien smuggling conspiracy and with eighteen substantive alien smuggling counts. All of the charged conduct occurred outside the United States. Assadi was arrested on January 24, 2002, in Miami, when he arrived there after being expelled from Colombia for conduct among that charged in the indictment. He has remained detained since that time.[1]

I. BACKGROUND OF THE OFFENSE CONDUCT

This case arises from the activities of Assadi and an array of associates in his country of residence – Ecuador – and other locations outside the United States where they plied their alien smuggling trade. Assadi was for several years a prominent leading figure among the community of persons from Middle East countries in Ecuador, many of whom sought to come to the United States despite having no lawful authorization to do so. Through his associates, and at times directly, Assadi recruited "clients" from among those persons, charging them as much money as he could obtain from them – generally in the range of $4,000 to $8,000 per person – for his

[1] Because virtually all the evidence in this case lay outside the United States and had to be obtained through foreign legal assistance requests, the Court ordered time under the Speedy Trial Act excluded from computation pursuant to 18 U.S.C. §3292.

smuggling services. Assadi's principal smuggling method was to furnish aliens with falsified passports from European countries for which United States visas were not required. These documents, together with the assistance of airport personnel who were paid off by Assadi and his cohorts, enabled the aliens to board United States-bound commercial airplanes. Once at a United States airport, certain aliens were either apprehended or turned themselves in and claimed asylum – triggering an INS administrative process that often resulted in lengthy removal procedures, during the course of which the aliens were typically released on bond and permitted to remain in the United States pending resolution of their immigration status and asylum claim. In other words, for many of Assadi's clients, he was successful if he managed to get them onto a United States-bound airplane.

Assadi and his associates would smuggle anyone who would pay them, but they were particularly active among those from their own and neighboring countries: Iran, Iraq, Jordan, Egypt, Pakistan, and the like. They especially sought to recruit Chaldean and Assyrian Christian refugees from Iraq, because these tended to be more affluent, to have family already lawfully in the United States who could pay their smuggling fees, and to believe they could successfully claim asylum once within the United States. Associates in Amman, Jordan, where many of these Iraqi refugees congregated, would steer them to Ecuador to be then smuggled to the United States either directly or via other South and Central American countries.

While Assadi by no means limited his clientele to Iraqi religious refugees, it is persons in this category who turned themselves in to INS authorities upon arriving in the United States and thereafter candidly described Assadi's role in smuggling, or attempting to smuggle, them to this country. But for these cooperating witnesses – who represent but a fraction of the aliens

smuggled by Assadi – the government would have been unable to bring Assadi to justice. There is simply no way to know all those who illegally entered the United States through this defendant's efforts.

Assadi was the protegé of a major alien smuggler in Ecuador named George Tajirian, who for more than twenty years was the leading smuggler of Middle East persons to the United States. In 1998, Tajirian was indicted in the Western District of Texas on alien smuggling charges. He was arrested, pled guilty, and died while serving a lengthy prison term. The void in the Ecuador-based alien smuggling business created by his apprehension was quickly filled by several contenders, with Assadi emerging as a leading successor.

II. GLOSSARY

The **Immigration and Naturalization Service** (INS), an agency of the United States Department of Justice, has a dual mission: (1) to enforce the laws which regulate the admission of foreign-born persons to the United States, by preventing aliens from entering the United States illegally and to find and remove those who are living or working in the United States without authorization; and (2) to administer various immigration benefits. INS **inspectors** at ports of entry into the United States screen travelers coming into the United States and determine whether travelers who are aliens may be admitted into the United States.

An **alien** is any person who is not a citizen or national of the United States. 8 U.S.C. §1101(a)(3).

An alien is not deemed **admitted** into the United States until the alien lawfully enters the United States after inspection and authorization by an immigration officer. 8 U.S.C. §1101(a)(13)(A). A consideration in such inspection and authorization is whether the alien

seeking admission possesses a valid **visa** permitting him/her to enter the United States, or alternatively, whether the alien does not require a visa by virtue of his/her possession of a validly-issued passport of any of certain countries (such as many of the countries of Europe) for which visas are not required. A **visa** is a permit issued by a consular representative of a country, allowing its lawful bearer entry into or transit through a country.

Under certain limited circumstances, an alien who appears to the INS to be inadmissible into the United States may nonetheless be permitted to come into the United States, providing he/she is not a security or flight risk. This conditional entry permission is referred to as a **parole**, and does not constitute "admission".

III. ELEMENTS OF THE CHARGED OFFENSES

All of the charges against the defendant are under the main criminal provision of the Immigration and Nationality Act, Section 1324 of Title 8 of the United States Code.

A. Count One: Conspiracy to Encourage/Induce

Count One charges the defendant with alien smuggling conspiracy under the conspiracy prong of Section 1324. This prong provides criminal penalties for "[a]ny person who . . . engages in any conspiracy to commit" the act of "encourag[ing] or induc[ing] an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law . . . ." 8 U.S.C. §1324(a)(1)(A)(iv) (Encouraging and Inducing) and 1324(a)(1)(A)(v)(I) (Conspiracy). The elements of the "encouraging and inducing" offense are discussed below.

The Section 1324(a)(1)(A)(v)(I) conspiracy does not define "conspiracy" or specifically require proof of overt acts. The indictment in this case is structured as if it were charging the omnibus conspiracy offense under 18 U.S.C. §371. The entire conspiracy charged falls within the applicable five-year statute of limitations. 18 U.S.C. §3282.

B. Counts Two through Eleven

In Counts Two through Eleven, the defendant is charged with substantive violations of "encouraging and inducing" as that criminal statute is quoted above, and with "aiding and abetting" his associates in doing so. 8 U.S.C. §1324(a)(1)(A)(iv) and §1324(a)(1)(A)(v)(II). Each count relates to one of the aliens described in Count One (conspiracy). The elements of this offense are:

1. That the person whom the defendant allegedly encouraged/induced was at the time an alien;
2. That the defendant encouraged or induced the alien to enter the United States in violation of law;
3. That the defendant knew, or recklessly disregarded, the fact that the alien's entry into the United States would be in violation of the law.

C. Counts Twelve through Nineteen

In Counts Twelve through Nineteen, the defendant is charged with substantive violations of the "bringing to" clause of Section 1324. That clause provides criminal penalties for

> Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien . . . .

8 U.S.C. §1324(a)(2). All but two of the aliens described in Count One (conspiracy) and Counts Two through Eleven are charged under this theory. (As to the two aliens who were not, the government will not present evidence that the defendant's actions advanced to the point where they constituted an attempted "bringing to".)

The elements of this offense are:

1. That the person whom the defendant allegedly brought or attempted to bring was at the time an alien;
2. That the defendant brought, or attempted to bring, the alien to the United States. "Bringing" an alien to the United States includes *in any manner whatsoever* "leading", "escorting", or "causing [the alien] to come along" to the United States;
3. That the defendant knew, or recklessly disregarded, the fact that the alien had not received prior official authorization to come to, enter, or reside in the United States.

C. "Private Financial Gain"

As to all nineteen counts, the government has charged that the defendant acted "for the purpose of commercial advantage or private financial gain" – specifically, the latter. 8 U.S.C. §1324(a)(1)(B)(i) (for Counts One through Eleven) and §1324(a)(2)(A)(ii) (for Courts Twelve through Nineteen). This is not an element of proof of the offenses charged, but a statutory sentence enhancement that must be proven beyond a reasonable doubt.

IV. THE GOVERNMENT'S CASE IN CHIEF

The government anticipates presenting fifteen to twenty witnesses. The defendant has indicated a disinclination to enter into stipulations that might reduce that number by one or two.

The government's case will proceed in four parts.

First, the government will present an INS officer who will testify as an expert in alien smuggling operations and in INS laws, regulations, and procedures. His testimony will provide jurors with the context in which the defendant's activities occurred.

Second, the government will present witnesses to the particular facts and circumstances that led to the defendant's apprehension by Colombian authorities in Cali, Colombia, on January 17, 2002, and his subsequent arrest in the United States on January 24, 2002. These witnesses will include an alien whom the defendant was in the midst of attempting to smuggle at the time of his apprehension, and Colombian and United States law enforcement personnel who will authenticate evidence recovered from the defendant and statements made by him.

Third, the government will present the testimony of several of the other aliens who are the subjects of overt acts and substantive charges. These witnesses will testify about their dealings with the defendant and the respective smuggling arrangements they made with him, as well as their own observations of his smuggling enterprise. The government expects that these witnesses will identify the defendant as the man they knew variously as "Mike" or "Mario" or "Antonio" or, in some cases, "Mohammed Assadi." There will also be testimony from two of Assadi's own associates – one who was a confidential informant and another who has entered a plea of guilty in this District to his own alien smuggling charges (not directly related to this case) and agreed to cooperate with the government. They will describe in detail their own involvement with the defendant in the alien smuggling business and its *modus operandi*. It is anticipate they, too, will identify the witness. Numerous of the witnesses among Assadi's alien "clients" and his associates will testify about incidents involving one another as well as Assadi.

Several will testify that Assadi was an avid casino gambler, who constantly spoke of his lack of money.

Finally, the government will present relatively brief testimony from two INS Forensic Document Laboratory experts, who will explain their findings with respect to some of the physical evidence recovered in this case.

The physical evidence the government will be presenting in this case consists of fewer than 20 sets of exhibits, some of which include numerous items that have been appropriately marked for ready identification. The types of evidence contained in the exhibits consist of:

1. Documents, photographs, a videotape, document-alteration materials, and other tangible items;

2. Laboratory reports summarizing the findings of the forensic document examiners;

3. Official business records, including certified public records; and,

4. Demonstrative evidence, including maps and charts, to assist the jurors in understanding the testimony being presented.

The government will provide the Court and the defendant with exhibit books, and will use the Court's electronic projection equipment to publish the exhibits to the jury.

V. ANTICIPATED LEGAL AND PRACTICAL ISSUES

The testifying aliens' intentions in coming to the United States is not relevant and the defendant should not be permitted to inquire into it.

The government anticipates that the defendant will assert in his defense in this trial (as he has in the past) that he bears no criminal liability because in smuggling aliens to the United States he acted out of "humanitarian" motives to help refugees obtain asylum in the United States. Quite apart from the utter lack of credible factual basis for such a claim, the defendant's

reliance on a "humanitarian motive" defense is without basis in law and he should be precluded from raising it either through cross–examination of the government's witnesses or in his own case. The fact remains, Assadi smuggled and attempted to smuggle to the United States aliens who had no lawful authority to enter the United States.[2]

It is well established that the mere fact that aliens might make asylum applications after they arrive in the United States does not alter the fact that they came here in violation of law.

> That Congress created a mechanism for those illegal aliens already inside the country to apply for political asylum hardly amounts to granting illegal aliens a license to cross our borders without being duly admitted. Congress has simply recognized that large numbers of undocumented aliens are in fact within our borders and established an administrative procedure to cope with this reality. It did not proclaim that anyone considering himself the victim of political persecution can cross our borders by stealth and studiously avoid the authorities in perpetuity. Even a successful asylum applicant remains subject to criminal prosecution for previous immigration law violations . . . .

United States v. Aguilar, 883 F.2d 662, 678 (9th Cir. 1989), cert. denied sub nom Soccoro Pardo et al. v. United States, 498 U.S. 1046 (1991).

For the defendant to assert, through his questioning of witnesses or otherwise, that his actions were justified – or his intent nullified – by asserted "humanitarian" motives, would certainly lead to jury confusion on central issues in this trial. He should be foreclosed from so

---

[2] Indeed, Assadi's actions implicated a host of immigration-related crimes. By providing aliens with fraudulent passports enabling them to board aircraft destined for the United States, he caused a violation of 8 U.S.C. §1323, which makes it unlawful for any transportation company, including air carriers, to bring to the United States any alien who does not have a valid passport. By knowingly furnishing fraudulent passports to enable the aliens to board aircraft destined for the United States, his conduct amounted to violations of 18 U.S.C. § 1543 (forgery or false use of passport) and § 1544 (misuse of passport). Moreover, in furnishing the aliens with fraudulent passports and instructing that the passports be destroyed in the air en route to the United States, Assadi and his coconspirators engaged in a conspiracy to defraud the INS of its right and ability to effectively enforce the immigration laws. 18 U.S.C. §371.

burdening the jury and, as he has no legal foundation for such an argument, he will not be prejudiced by such foreclosure.

Interpreters

The testimony of several witnesses will require translation to and from their native languages, Arabic and Spanish. The defendant uses a Spanish interpreter in these proceedings, and is fluent in both Arabic and Spanish (among other languages). Because the official record in this case is in English, the foreign-language testimony of each witness should be translated into English before it is translated into Spanish for the defendant.

Rule on Witnesses

The government will invoke the rule excluding witnesses for both parties from being present during the trial. The INS case agent and other personnel who are supporting the prosecutors will not testify and will at times be present in the courtroom, though not at counsel table, to assist the government.

Respectfully submitted,

ROSCOE C. HOWARD, JR.
United States Attorney

By: _____

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Certification

I hereby certify that a copy of the foregoing was served by hand delivery upon counsel for the defendant, David Bos, Assistant Federal Public Defender, Office of the Federal Public Defender, 625 Indiana Avenue, N.W., Washington, D.C. 20004, this 23rd day of September, 2002.

_____

Laura A. Ingersoll

U.S. Department of Justice
United States Attorney
District of Columbia

Judiciary Center
555 Fourth St. N.W.
Washington, D.C. 20530

FAX

To:	Todd Bensman San Antonio Express-News	From:	Laura A. Ingersoll Assistant United States Attorney National Security Section
Fax:	210/250-3105	Phone:	202/514-9549 Fax: 202/307-6059
Date:	January 8, 2007		
Re:	United States v. Maher Wazzen Ahmed Yousof Jarad, Criminal No. 02-090 (HHK)		
Page(s):	16 including cover		

COMMENTS:

Unsealed indictment, as requested.

U.S. ATTORNEY'S OFFICE FACSIMILE COMMUNICATION

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

Grand Jury Sworn in on June 11, 2001

UNITED STATES OF AMERICA	**CRIMINAL NO. : 02-090 (HHK)**
v.	**VIOLATIONS:**
MAHER WAZZEN AHMED YUSOF JARAD	**8 U.S.C. § 1324(a)(2), (a)(2)(B)(ii) (Attempted Bringing of Unauthorized Aliens for Financial Gain)**
Defendant.	**8 U.S.C. §§1324(a)(1)(A)(iv), (a)(1)(B)(i) (Encouraging or Inducing Aliens to Come to, Enter, or Reside in the United States for Financial Gain)**
	8 U.S.C. §1324(a)(1)(A)(i), (a)(1)(B)(i) (Attempted Alien Smuggling)
	18 U.S.C. § 2 (Aiding and Abetting)
	8 U.S.C.§ 1324 (a)(1)(A)(i),(iv), (A)(1)(a)(v)(I), (a)(1)(B)(i) (Conspiracy to Commit Alien Smuggling for Financial Gain)

INDICTMENT

The Grand Jury charges that:

COUNT ONE

Beginning in or about the middle of October 2001 and continuing until on or about February 7, 2002, in the Republic of Ecuador, upon the high seas and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia,

the defendant, **MAHER WAZZEN AHMED YUSOF JARAD**, and others whose identities are known and unknown to the Grand Jury, for the purpose of commercial advantage and private financial gain, knowing and in reckless disregard of the fact that said aliens had not received prior official authorization to come to, enter, and reside in the United States did attempt to bring to the United States, by certain manners, more than two aliens, that is, three aliens and more.

(**Attempted Bringing of Unauthorized Aliens for Financial Gain**, in violation of Title 8, United States Code, Section 1324 (a)(2), (a)(2)(B)(ii); **Aiding and Abetting**, in violation of Title 18, United States Code, Section 2).

COUNT TWO

Beginning in or about the middle of October 2001 and continuing until on or about February 7, 2002, in the Republic of Ecuador, upon the high seas and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendant, **MAHER WAZZEN AHMED YUSOF JARAD**, and others whose identifies are known and unknown to the Grand Jury, for the purpose of commercial advantage and private financial gain, knowingly did encourage and induce aliens to come to, enter, and reside in the United States, knowing and in reckless disregard of the fact that such coming to, entry, and residence is or will be in violation of law.

(**Encouraging or Inducing Aliens to Come to, Enter, or Reside in the United States for Financial Gain**, in violation of Title 8, United States Code, Section 1324 (a)(1)(A)(iv), (a)(1)(B)(i); **Aiding and Abetting**, in violation of Title 18, United States Code, Section 2)

COUNT THREE

Beginning in or about the middle of October 2001 and continuing until on or about February 7, 2002, in the Republic of Ecuador, upon the high seas and elsewhere, in the

extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendant **MAHER WAZZEN AHMED YUSOF JARAD,** and others whose identities are known and unknown to the Grand Jury, knowingly did attempt to bring to the United States aliens, knowing that they were aliens, at a place other than a designated port of entry and at a place other than as designated by the Commissioner of the United States Immigration and Naturalization Service, regardless of whether such aliens had received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such aliens.

(**Attempted Alien Smuggling to a Place Other than a Designated Port**, in violation of Title 8, United States Code, Section 1324 (a)(1)(A)(i), (a)(1)(B)(i); **Aiding and Abetting**, in violation of Title 18, United States Code, Section 2)

COUNT FOUR

1. Beginning in or about the middle of October 2001 and continuing until on or about February 7, 2002, in the Republic of Ecuador, upon the high seas and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendant, **MAHER WAZZEN AHMED YUSOF JARAD,** and others whose identities are known and unknown to the Grand Jury, did unlawfully, willfully, and knowingly combine, conspire, confederate, and agree together, for the purpose of commercial advantage and private financial gain,

a) to encourage and induce aliens to come to, enter, and reside in the United States, knowing and in reckless disregard of the fact that such coming to, entry, and residence is

or will be in violation of law, in violation of Title 8, United States Code, Section 1324 (a)(1)(A)(iv), (a)(1)(B)(i)); and

b) to bring and attempt to bring to the United States aliens, at a place other than a designated port of entry and other than as designated by the Commissioner of the United States Immigration and Naturalization Service, intending for them to enter the United States illegally, in violation of Title 8, United States Code, Section 1324 (a)(1)(A)(i), (a)(1)(B)(i).

GOAL

2. The goal of the conspiracy was to make money by smuggling one or more aliens into the United States of America.

MANNER AND MEANS

3. The defendant, **MAHER WAZZEN AHMED YUSOF JARAD** (hereinafter in this court referred to as "the defendant"), and his coconspirators would and did use the following manner and means, among others, in seeking to achieve the objects and goal of their conspiracy:

A) It was part of the conspiracy that the defendant and his coconspirators would and did recruit aliens, in the city of Quito, Ecuador, and elsewhere, to be taken to the United States in exchange for payment, or promised payment, of money.

B) It was further a part of the conspiracy that the defendant and his coconspirators would and did make it known that aliens from Iraq should travel to Ecuador to meet with the defendant and/or his coconspirators and, in exchange for payments to the defendant and/or his coconspirators, to be smuggled through Guatemala and Mexico into the United States.

C) It was further a part of the conspiracy that the defendant and his coconspirators would and did instruct aliens from Iraq on how to travel to Quito, Ecuador, for the purpose of being smuggled to the United States.

D) It was further a part of the conspiracy that the defendant would and did conduct his alien smuggling business through the use of a network of associates, with whom he shared money obtained through their alien smuggling activities, with the makeup of the group of associates who participated in smuggling any particular alien, or group of aliens, depending upon the manner in which the aliens were recruited and the route used to transport them to the United States.

E) It was further a part of the conspiracy that the defendant and his coconspirators would and did collect money from the aliens and their families.

F) It was further a part of the conspiracy that the defendant and his coconspirators would and did demand of the aliens that they pay him in cash or by wire transfer of funds.

G) It was further a part of the conspiracy that the defendant and his conspirators would and did transport the aliens from Quito, Ecuador, to the coast of the Republic of Ecuador for departure on a vessel to Guatemala.

H) It was further a part of the conspiracy that the defendant and his coconspirators would and did transport aliens to and through Guatemala and Mexico and did harbor the aliens in safe-houses and/or hotels en route to the United States.

OVERT ACTS

4. In furtherance of the conspiracy and to effect and accomplish the objects and goal of the conspiracy, one or more of the conspirators committed the following overt acts, among

others:

1) On or about October 16, 2001, the defendant participated in a telephone call with a coconspirator in Jordan, who told defendant that he was sending eleven people to the defendant in Ecuador.

2) On or about October 16, 2001, the defendant participated in a telephone call with the same coconspirator in Jordan, in which the coconspirator told the defendant that he was sending eleven people to the defendant in Ecuador and after which the coconspirator provided to R.N.N., an alien, a cellular telephone number, 099-200-040, to be used by R.N.N. to contact the defendant in Ecuador.

3) On or about November 20, 2001, in Quito, Ecuador the defendant told N.S.T., an alien, that he would charge $13,000 in U.S. currency to smuggle N.S.T.'s family, consisting of 5 people, from Quito, Ecuador, to Guatemala, en route to the United States.

4) On or about November 20, 2001, in Quito, Ecuador, the defendant told N.S.T. that N.S.T.'s family would be smuggled into the United States illegally by crossing a river.

5) On or about November 20, 2001, in Quito, Ecuador, the defendant told N.S.T. that once they arrived in Texas, N.S.T.'s family would be placed on a plane to San Diego, California, and that after N.S.T.'s family had arrived in San Diego, N.S.T. should contact other family members there to send money, via Western Union, to defendant as payment for smuggling them to the United States.

6) On or about November 20, 2001, in Quito, Ecuador, the defendant told N.S.T. about the possibility of entering the United State near Tijuana, Mexico, comparing the cost of crossing into the United States near San Diego ($6,000) with the fee for crossing the

border into Texas ($4000).

7) On or about November 20, 2001, in Quito, Ecuador, the defendant told R.N.N. that he would charge R.N.N. $15,000 in U.S. currency to smuggle R.N.N.'s family, consisting of 6 people, to Guatemala, en route to the United States.

8) On or about November 20, 2001, in Quito, Ecuador, the defendant, in R.N.N.'s presence, told a coconspirator on the telephone, "I have another group of people for you. Once they get to Guatemala, they will call you."

9) On or about November 20, 2001, in Quito, Ecuador, the defendant told R.N.N. that his associates in Guatemala would charge R.N.N. an additional fee of approximately $4,000 per person to smuggle them from Guatemala to the United States at the border between Texas and Mexico.

10) On or about November 20, 2001, in Quito, Ecuador, the defendant identified to R.N.N. his associates in Guatemala and Mexico so that R.N.N. could contact them to continue from Guatemala to the United States.

11) On or about November 20, 2001, in Quito, Ecuador, the defendant, in the presence of R.N.N., told a coconspirator on the telephone that another group of 18 people would contact the coconspirator when they arrived in Guatemala.

12) On or about November 20, 2001, in Quito, Ecuador, the defendant told R.N.N. that he and his associates would smuggle R.N.N.'s family from Ecuador to Guatemala, from Guatemala to Mexico, and then to the United States.

13) On or about November 20, 2001, in Quito, Ecuador, the defendant instructed R.N.N. that if R.N.N.'s family were apprehended by police or immigration enforcement

authorities in Guatemala, Mexico, or the United States, they should not provide defendant's name to the authorities as being involved in smuggling them, warning that, if they did, they would lose their money and defendant would not attempt to smuggle them to the United States again.

14) On or about November 20, 2001, in Quito, Ecuador, the defendant told R.N.N. that R.N.N. and his family would enter the United States illegally by swimming across a river.

15) On or about November 20, 2001, in Quito, Ecuador, the defendant told R.N.N. that, once in the United States, R.N.N.'s family would be placed on a plane to San Diego, California.

16) On or about November 20, 2001, in Quito, Ecuador, the defendant told R.N.N. that after R.N.N.'s family had arrived in San Diego, R.N.N. should contact other family members in San Diego, California, and have them send to defendant the payment for smuggling them to the United States.

17) Between on or about November 20, 2001 and November 30, 2001, in Quito, Ecuador, the defendant identified to N.S.T. his associates in Guatemala and Mexico so that N.S.T. could contact them to continue from Guatemala to the United States.

18) On or about November 30, 2001, in Quito, Ecuador, the defendant told N.S.T. that his associates in Guatemala would charge N.S.T. an additional fee of approximately $4,000 per person to smuggle them from Guatemala to the United States at the border between Texas and Mexico.

19) On or about December 8, 2001, in Quito, Ecuador, the defendant told N.S.T. that if

his family were apprehended in Ecuador, they would be assisted by an attorney named "Ronaldo" and that "Ronaldo" would assist them by gaining their release from any Ecuadoran law enforcement entity which had detained them.

20) On or about December 8, 2001, in Quito, Ecuador, the defendant stated to R.N.N. that if R.N.N.'s family were apprehended in Ecuador, they would be assisted by an attorney named "Rolando," and that "Rolando" would assist them by gaining their release from any Ecuadoran law enforcement entity which had detained them.

21) On or about December 8, 2001, the defendant transported N.S.T. and his family, B.J.I., an alien, and her family, and R.N.N. and his family, in a bus, while he accompanied them in a car, from Quito, Ecuador, toward the coast for the purpose of traveling on a boat to Guatemala as part of the trip to the United States.

22) On or about January 15, 2002, in Quito, Ecuador, the defendant told R.H.S., an alien, that the defendant would charge his family $3,500 per person to smuggle R.H.S.'s family, consisting of 3 people, from Quito, Ecuador to Guatemala, en route to the United States.

23) On or about January 15, 2002, in Quito, Ecuador, the defendant told R.H.S. that R.H.S. and his family would be smuggled into the United States.

24) On or about January 15, 2002, in Quito, Ecuador, the defendant told R.H.S. about the possibility of entering the United States near San Diego, comparing the cost of crossing into the United States near San Diego ($6,000) with the fee for crossing the border in Texas ($4,000).

25) On or about January 15, 2002, in Quito, Ecuador, the defendant told R.H.S. that if he and his family were apprehended in Ecuador, an attorney named "Rolando" would make

every attempt to gain their release, and that, if they were arrested, the defendant, would again try to move them to Guatemala.

26) On or about January 15, 2002, in Quito, Ecuador, the defendant assured R.H.S. that he and his family would not get arrested and would get to Guatemala safely.

27) On or about January 17, 2002, in Quito, Ecuador, the defendant stated to S.A.O., an alien, that he would charge S.A.O. and his sister $3,500 per person to be transported to Guatemala.

28) On or about January 17, 2002, in Quito, Ecuador, the defendant stated to S.A.O. and his sister, when they were discussing the price of their trip to Guatemala, that if they were apprehended in Ecuador, an attorney named "Rolando" would try to gain their release from whichever law enforcement entity was detaining them and that, in such event, the defendant would again attempt to transport them to Guatemala.

29) On or about January 17, 2002, in Quito, Ecuador, the defendant told R.H.S. that the San Diego route is much longer and more dangerous.

30) On or about January 17, 2002, in Quito, Ecuador, the defendant told R.H.S. that crossing through Texas would be closer and easier.

31) On or about January 17, 2002, in Quito, Ecuador, the defendant told R.H.S. that his associates in Guatemala would charge R.H.S an additional fee of approximately $4,000 per person to smuggle them from Guatemala to the United States at the border between Texas and Mexico.

32) On or about January 17, 2002, in Quito, Ecuador, the defendant identified to R.H.S. his associates in Guatemala so that R.H.S. could contact them to continue from

Guatemala to the United States.

33) On or about January 17, 2002, in Quito, Ecuador, the defendant told R.H.S., about another method to be smuggled into the United States by using his associates, for $1,800 per person, to move them from Guatemala to southern Mexico where they would need to negotiate another fee to travel from southern Mexico to Mexico City where R.H.S could contact the defendant's brother Hakam to get R.H.S. and his family into the United States for an additional $1,000 per person.

34) On or about January 20, 2002, in Quito, Ecuador, the defendant told R.H.S. that once they arrived in the United States, R.H.S. should contact other family members to send money, via Western Union, to defendant as payment for smuggling them into the United States.

35). On or about January 24, 2002, in Quito, Ecuador, the defendant told B.J.I. that his associates in Guatemala would charge B.J.I. an additional fee of approximately $4,000 per person to smuggle them from Guatemala to the United States at the border between Texas and Mexico.

36) On or about January 24, 2002, in Quito, Ecuador, the defendant told B.J.I. that, if his family was apprehended in Ecuador, they would be assisted by an attorney named "Ronaldo" who would assist them by gaining their release from any Ecuadoran law enforcement entity which had detained them.

37) On or about January 24, 2002, in Quito, Ecuador, the defendant told B.J.I. that B.J.I. and her family would enter the United States illegally by swimming across a river.

38) On or about January 24, 2002, in Quito, Ecuador, the defendant told to B.J.I. about

the possibility of entering the United States near Tijuana, Mexico, comparing the cost of crossing into the United States near San Diego ($6,000) with the fee for crossing the border in Texas ($4,000).

39) On or about January 25, 2002, in Quito, Ecuador, the defendant moved S.A.O. and his sister to an apartment complex where other Iraqis were staying and waiting to be smuggled to the United States by the defendant.

40) On or about January 25, 2002, in Quito, Ecuador, the defendant moved R.H.S. and his family to an apartment complex where other Iraqi aliens were waiting to be smuggled into the United States.

41) Between on or about January 25, 2002, and on or about January 28, 2002, in Quito, Ecuador, the defendant told S.A.O. that his associates in Guatemala would charge S.A.O. an additional fee of approximately $4,000 per person to smuggle them from southern Mexico into the United States.

42) Between on or about January 25, 2002, and on or about January 28, 2002, in Quito, Ecuador, the defendant identified to S.A.O. associates in Guatemala and Mexico so that S.A.O. could contact them to continue from Guatemala to the United States.

43) Between on or about January 25, 2002, and on or about January 28, 2002, in Quito, Ecuador, the defendant told S.A.O. that the cost of crossing the United States border near San Diego, California ($6,000), was greater than the fee for crossing the border into Texas ($4,000), and that crossing into Texas would be easier and less distant from S.A.O.'s final destination of Detroit.

44) On or about January 28, 2002, the defendant transported N.S.T. and his family,

R.H.S. and his family, R.N.N. and his family, B.J.I. and her family, S.A.O. and his sister and 21 Central Americans, on a bus from Quito, Ecuador, to the coast of Ecuador to board a boat to Guatemala, but, due to bad weather, could not do that.

45) On or about February 3, 2002, the defendant transported N.S.T. and his family, R.H.S. and his family, R.N.N. and his family, B.J.I. and her family, S.A.O. and his sister and 21 Central Americans, in a bus from Quito, Ecuador, to the coast of Ecuador to board a boat for Guatemala.

46) On or about February 4, 2002, on the coast of Ecuador, the defendant told N.S.T. and his family, R.H.S. and his family, R.N.N. and his family, B.J.I. and her family, S.A.O. and his sister and 21 Central Americans, to wade through the surf and get into 6 small boats to be transported a few kilometers out to sea to board the Ecuadoran fishing vessel ESPERANZA.

47) From on or about February 4, 2002, until on or about February 7, 2002, coconspirators sailed a fishing vessel named the ESPERANZA, approximately 22 meters in length and carrying approximately 137 aliens, on the high seas from the Republic of Ecuador toward the Pacific Coast of Guatemala. (United States Coast Guard photographs of the vessel and some of the aliens on the vessel, taken on the high seas on or about February 7, 2002, appear on the next page of this Indictment.)

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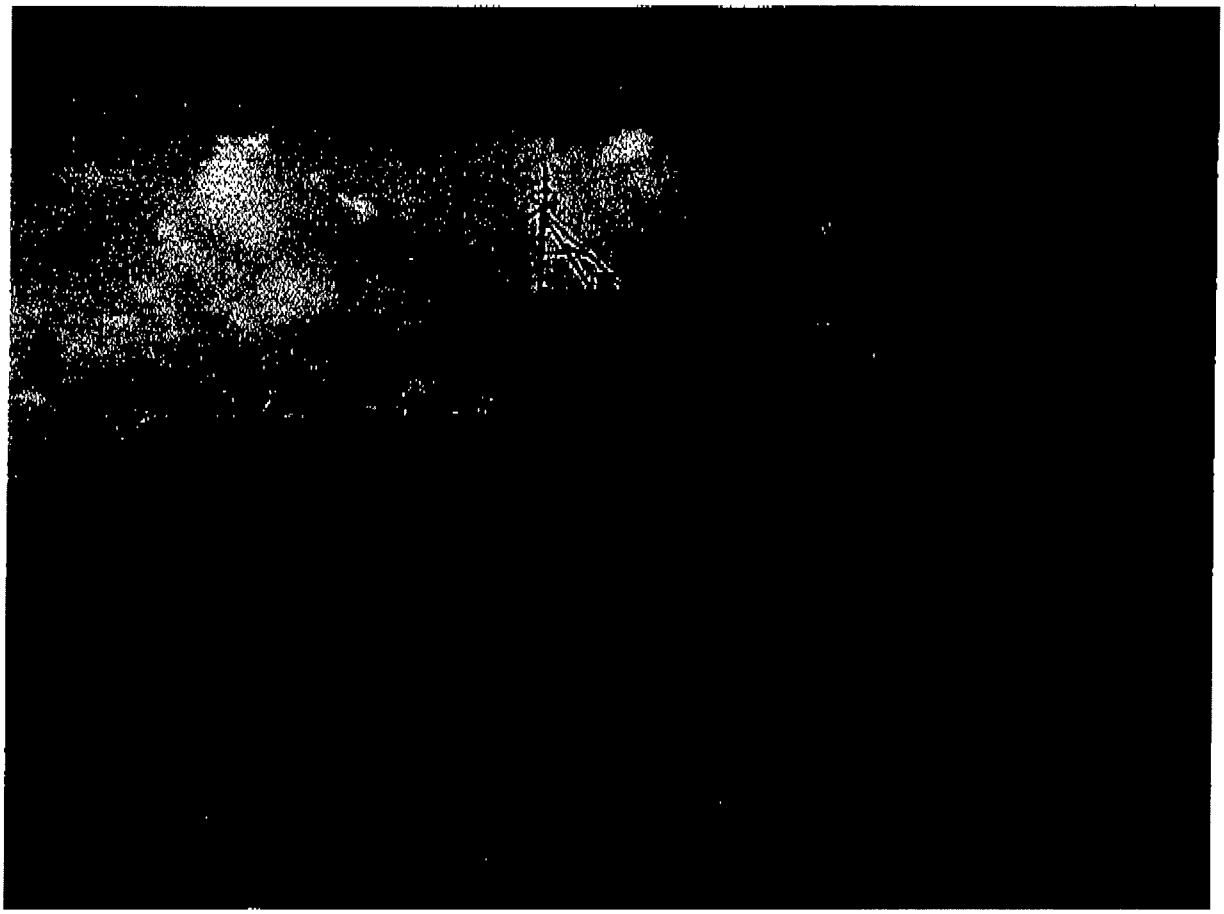

(**Conspiracy to Commit Alien Smuggling for Financial Gain,** in violation of Title 8, United States Code, Section 1324 (a)(1)(A)(i), 1324(A)(1)(iv), (a)(1)(A)(v)(I), (a)(1)(B)(i))

A TRUE BILL

FOREPERSON

Roscoe C. Howard, Jr. / JB

Attorney of the United States in
and for the District of Columbia

Joseph B. Valder
Assistant United States Attorney
Transnational/Major Crimes Section

William Ho-Gonzalez
Sr. Trial Attorney, Alien Smuggling Task Force
Criminal Division
United States Department of Justice

CONFORMED & REDACTED COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Holding a Criminal Term

Sworn in on September 30, 2004

UNITED STATES OF AMERICA	**Criminal No.: 04-401 (RMC)**
v.	
NEERAN HAKIM ZAIA, also known as "Nancy," Neeran Hanna, Neeran Hindo, and Niehran Zai Al-Hakeem,	**Violations:**
and	**18 U.S.C. § 371 (Conspiracy to Smuggle Aliens Into the United States)**
THAER OMRAN ISMAIL ASAIFI, also known as "Abu Harp," "Tam", Mureb al Shurafti, and "Sakr,"	**8 U.S.C. § 1324(a)(2)(B)(ii) (Bringing Unauthorized Aliens to the United States for Commercial Advantage or Private Financial Gain)**
and	**8 U.S.C. § 1327 (Aiding and Abetting Certain Aliens to Enter the United States)**
CONSPIRATOR "E,"	**18 U.S.C. § 1512(b)(1) (Tampering with a Witness by Misleading Conduct)**
and	**18 U.S.C. §§ 2(a) and 2(b) (Aiding and Abetting; Causing an Act to be Done)**
CONSPIRATOR "F,"	
and	
CONSPIRATOR "G,"	
Defendants.	

FILED
OCT 21 2005
NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

SUPERSEDING

INDICTMENT

The Grand Jury charges that:

COUNT ONE

At all times relevant to this Indictment:

1. The defendant, **NEERAN HAKIM ZAIA** (hereinafter "**NANCY ZAIA**"), also known by various other names listed above, was at all relevant times a naturalized United States citizen, who resided both in Amman, Jordan, and Sterling Heights, Michigan; and who advertised places of business in Sterling Heights, Michigan; Windsor, Ontario, Canada; and Amman, Jordan.

2. The defendant, **THAER OMRAN ISMAIL ASAIFI** (hereinafter "**ABU HARP**"), also known by various other names listed above, was at all relevant times a citizen of Jordan, born in Zarqa, Jordan, who resided in Amman, Jordan.

3. Coconspirator **BS** was at all relevant times a naturalized United States citizen, who resided in Sterling Heights, Michigan.

4. Coconspirator **MM** was at all relevant times a naturalized United States citizen, who resided in Warren, Michigan and/or Sterling Heights, Michigan, and who was regularly employed in various jobs by defendant **NANCY ZAIA** and conspirator **BS**.

5. The defendant, **CONSPIRATOR "E,"** was at all relevant times a citizen of [REDACTED], who resided variously in [REDACTED].

6. The defendant, **CONSPIRATOR "F,"** was at alll relevant times a resident in [REDACTED].

7. The defendant, **CONSPIRATOR "G,"** was at all relevant times a citizen of [REDACTED], and a resident of [REDACTED].

8. The defendants **ABU HARP** and **NANCY ZAIA** are husband and wife, who together with defendants **CONSPIRATOR "E," CONSPIRATOR "F," CONSPIRATOR "G,"** and other persons both known and unknown to the Grand Jury engaged in the business of smuggling aliens, including citizens of Iraq and other countries in the Middle East, into the United States for commercial advantage and private financial gain.

9. The defendants **CONSPIRATOR "E," CONSPIRATOR "F," CONSPIRATOR "G,"** together with defendants **ABU HARP, NANCY ZAIA** and other persons both known and unknown to the Grand Jury engaged in the business of smuggling aliens from the Middle East staged in transit in Ecuador, Peru, Colombia and other South American countries into the United States for commercial advantage and private financial gain.

10. The defendant **NANCY ZAIA** owned a business called UNIVERSAL INVESTMENT & LAW SERVICES which she used as a conduit for her smuggling activities by advertising immigration services in the Detroit Arab-language magazine, *al-Qitharah, majallah fanniyal ijtimaiayah musawwarah* ("The Harp"); on Detroit Arab-speaking radio station WNZK; on television; and through flyers and business cards, boasting offices in Windsor, Ontario; Sterling Heights, Michigan; and Amman, Jordan.

11. A person known to the Grand Jury owned and operated a business called SAUDI JORDAN TRAVEL AGENCY in Amman, Jordan, which he and defendants **ABU HARP, NANCY ZAIA**, and **CONSPIRATOR "G"** used as a conduit for the smuggling activities by providing

airline tickets and other services to migrants traveling through Amman, Jordan, to Ecuador and elsewhere.

12. The defendant **CONSPIRATOR "F"** served as a recruiter, middleman, and travel facilitator in Ecuador and elsewhere.

13. The defendant **CONSPIRATOR "G"** served as a recruiter, middleman, and travel facilitator in Amman, Jordan, and elsewhere, and collected smuggling fees from family members and others in the Detroit, Michigan, area as payment for migrants seeking to travel to the United States through the services of the conspiracy.

14. Coconspirator **BS** is an Assistant Ombudsman for the City of Detroit who used the prestige and resources of her Office in the furtherance of the conspiracy. Coconspirator **BS** was a point person for various aliens who were and are currently staged in South America awaiting illegal entry into the United States.

15. The defendants **CONSPIRATOR "E"** and **CONSPIRATOR "F"** have been involved in defendant **NANCY ZAIA**'s illegal alien smuggling activities for several years and have also served as point persons for various aliens who were and are staged in South America awaiting illegal entry into the United States.

16. The defendants **NANCY ZAIA, ABU HARP, CONSPIRATOR "G,"** and **CONSPIRATOR "E,"** and other persons both known and unknown to the Grand Jury, promoted their immigration services to citizens of Iraq and certain other Middle Eastern countries where it was not easy to obtain visas to lawfully enter the United States.

17. The individuals referred to herein as:

- "A-1", and "A-2";
- "B-1", and "B-2";
- "C-1", "C-2", and "C-3";
- "D-1", "D-2", and "D-3";
- "E-1", and "E-2";
- "F-1", "F-2", "F-3", and "F-4";
- "G-1", and "G-2";
- "H-1";
- "I-1", "I-2", "I-3", "I-4", "I-5", and "I-6";
- "J-1";
- "K-1" and "K-2";
- "L-1";

whose identities are known to the Grand Jury, were and are citizens of Iraq who sought to emigrate into the United States by utilizing the conspiracy's smuggling services.

The Conspiracy

18. From in or about early 2001 through and continuing to in or about October 2005, in the District of Colombia, Jordan, Ecuador, Peru, Colombia, and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendants **NANCY ZAIA, ABU HARP, CONSPIRATOR "E," CONSPIRATOR "F,"** and **CONSPIRATOR "G,"** knowingly and willfully combined, conspired, confederated, and agreed

with each other and with others both known and unknown to the Grand Jury, to commit offenses against the United States, more particularly: (a) to encourage and induce one or more aliens to come to, enter in, and reside in the United States, knowing and in reckless disregard of the fact that such coming to, entry, and residence would be in violation of law, that is, Encouraging and Inducing Aliens to Come to the United States, 8 U.S.C. § 1324(a)(1)(A)(iv); and (b) for the purpose of commercial advantage and private financial gain, to bring to and attempt to bring to the United States one or more aliens, knowing and in reckless disregard of the fact that such aliens have not received prior official authorization to come to, enter in, and reside in the United States, that is, Bringing Unauthorized Aliens to the United States for Commercial Advantage or Private Financial Gain, 8 U.S.C. § 1324(a)(2)(B)(ii).

Object of the Conspiracy

19. The object of the conspiracy was to profit, receive consideration, and make money by encouraging, inducing, bringing to, and smuggling aliens into the United States.

Manner and Means of Conspiracy

20. It was part of this conspiracy that defendants **NANCY ZAIA**, **ABU HARP** and **CONSPIRATOR "G"** recruited aliens in Iraq and in Jordan who wished to be taken to the United States in exchange for the payment or promised payment of money.

21. It was further part of the conspiracy that, using advertisements on radio and television, and business cards and flyers, the defendant **NANCY ZAIA** and various of their conspirators represented to Middle Eastern citizens residing in the United States and elsewhere that she could legally obtain visas for other Middle Eastern persons to travel to the United States from the Middle East, and that she would procure appropriate documents to facilitate that travel in

exchange for payments and promised payments of money to her and her associates.

20. It was a further part of the conspiracy that defendants **NANCY ZAIA, ABU HARP, CONSPIRATOR "E," CONSPIRATOR "F," CONSPIRATOR "G,"** and various of their conspirators conducted their alien smuggling business through the use of a network of conspirators with whom they shared money obtained through their alien smuggling activities; the constitution of the precise sub-team of conspirators who would most actively participate in the smuggling of any particular alien or group of aliens depended upon the manner in which the aliens were recruited and the specific arrangements made to transport them to the United States.

21. It was a further part of the conspiracy that the defendants **NANCY ZAIA, ABU HARP, CONSPIRATOR "E," CONSPIRATOR "F," CONSPIRATOR "G,"** and various of their conspirators maintained relations with other alien smugglers in the Middle East, South America, and/or elsewhere, to whom they would at times refer aliens or groups of aliens to be smuggled to the United States.

22. It was further part of the conspiracy that defendants **NANCY ZAIA, ABU HARP, CONSPIRATOR "E," CONSPIRATOR "F," CONSPIRATOR "G,"** and various of their conspirators collected money and/or sought to collect money from persons in the United States and elsewhere for the purpose of bringing and attempting to bring the migrants to the United States.

23. It was further part of the conspiracy that defendants **NANCY ZAIA** and **ABU HARP** and various of their conspirators promised aliens and their family members they would obtain United States visas, but after obtaining payment and partial payment to procure United States visas, instead provided the aliens with visas from countries in South America, not the promised visas to enter the United States.

24. It was further part of the conspiracy that, using these visas from countries in South America, defendants **NANCY ZAIA, ABU HARP, CONSPIRATOR "G,"** and various of their conspirators transported the aliens or caused them to be transported to various South American countries as a staging area for entry into the United States.

25. It was further part of the conspiracy that, once the aliens were in South American countries, defendants **NANCY ZAIA** and **ABU HARP** and other conspirators demanded additional money from the aliens as payment for their alien smuggling services and for bringing and attempting to bring the aliens to the United States.

26. It was further part of the conspiracy that defendants **NANCY ZAIA, ABU HARP, CONSPIRATOR "E," CONSPIRATOR "F," CONSPIRATOR "G,"** and other conspirators obtained and used false documents as part of their alien smuggling scheme.

27. It was further part of the conspiracy that defendants **NANCY ZAIA, ABU HARP, CONSPIRATOR "E," CONSPIRATOR "F," CONSPIRATOR "G,"** and other conspirators transported or caused to be transported aliens or groups of aliens to the Detroit, Michigan, area and other locations within the United States.

28. It was further part of the conspiracy that defendants **NANCY ZAIA, ABU HARP, CONSPIRATOR "E," CONSPIRATOR "F," CONSPIRATOR "G,"** and other conspirators transported or caused to be transported aliens or groups of aliens from South America to Washington, D.C., where they would be met by conspirators and picked up for transport to other locations within the United States.

29. It was a further part of the conspiracy that the defendants **NANCY ZAIA, ABU HARP, CONSPIRATOR "E," CONSPIRATOR "F," CONSPIRATOR "G,"** and other

conspirators took steps to conceal and maintain the secrecy of their alien smuggling activities to protect themselves from prosecution and to permit them to continue to engage in alien smuggling.

Number of Aliens Smuggled

30. In the course of this conspiracy more than 200 aliens were brought to and smuggled illegally into the United States for commercial advantage and private financial gain.

Overt Acts

31. In furtherance of the conspiracy, and to effect its object, the defendants, **NANCY ZAIA, ABU HARP, CONSPIRATOR "E," CONSPIRATOR "F," CONSPIRATOR "G,"** and other persons both known and unknown to the Grand Jury committed the following overt acts, among others:

Overt Acts Particularly Related to Aliens "A-1" and "A-2"

32. In or about the early Winter of 2001, defendant **NANCY ZAIA** stated over a radio broadcast in the Detroit, Michigan, area that she could bring Iraqi citizens from Iraq and Jordan into the United States legally, causing the brother of A-1 to contact defendant **NANCY ZAIA**.

33. In or about the early Winter of 2001, defendant **NANCY ZAIA** met with the brother of A-1 in Detroit, Michigan, where she told him she had contacts at the United Nations where she would obtain travel documents. Defendant **NANCY ZAIA** stated that the cost of this service for both A-1 and A-2 would be $5000 total; but refused the brother of A-1's attempt to pay by check, stating that she would accept only cash.

34. In or about the early Winter of 2001, defendant **NANCY ZAIA** met with the brother of A-1 in Detroit, Michigan, where she requested that the brother of A-1 provide her with photographs of the two migrants, A-1 and A-2.

35. On or about March 25, 2001, defendant **NANCY ZAIA** met with A-1 in Amman, Jordan, and discussed arrangements to bring A-1 and A-2 to the United States.

36. In or about the Spring of 2001, defendant **NANCY ZAIA** met with A-1 in Amman, Jordan, where she told A-1 that the price of the tickets had increased and that it would cost an additional $5000 for A-1 and A-2 to get to the United States.

37. In or about the Spring of 2001, defendant **NANCY ZAIA** received a telephone call from the brother of A-1 at the SAUDI JORDAN TRAVEL AGENCY in Amman, Jordan, operated by a person known to the grand jury. During this telephone call, defendant **NANCY ZAIA** told the brother of A-1 that if he did not pay the additional money, she would leave A-1 and A-2 in Amman, Jordan. Defendant **NANCY ZAIA** told the brother of A-1 that if he did pay the additional money, he would be "drinking tea with his sister in 4-5 days."

38. In or about the Spring of 2001, defendant **NANCY ZAIA** met again with A-1 in Amman, eventually accepting $10,600 from A-1 for the purpose of facilitating the entry of A-1 and A-2 into the United States.

39. In or about the Spring of 2001, defendant **NANCY ZAIA** provided fraudulently obtained Ecuadorian visas for A-1 and A-2.

40. On or about June 3, 2001, defendant **NANCY ZAIA** directed A-1 and A-2 to travel together with approximately seventeen (17) other Iraqis by air from Amman, to Moscow, to Cuba, and then to Quito, Ecuador.

41. In or about June, 2001, defendant **NANCY ZAIA** and defendant **ABU HARP** caused A-1 and A-2 to remain staged in South America while persons both known and unknown to the Grand Jury attempted to smuggle A-1 and A-2 from South America into the United States.

Overt Acts Particularly Related to Aliens "B-1" and "B-2"

42. On or about August 15, 2001, defendant **NANCY ZAIA** directed B-1 and B-2 to travel from Iraq to Amman, Jordan.

43. On or about August 2001, in Amman, Jordan, defendant **NANCY ZAIA** introduced B-1 to a man known as "Tam," a nickname of defendant **ABU HARP**.

44. On or about August 2001, in Amman, Jordan, defendant **ABU HARP** provided B-1 and B-2 with fraudulently obtained Ecuadorian visas.

45. On or about August 2001, defendant **NANCY ZAIA** collected a $12,000 down payment for bringing B-1 and B-2 to the United States.

46. On or about December 2001 or January 2002, while in the Middle East, defendants **ABU HARP** and **NANCY ZAIA** grouped B-1 and B-2 with other Iraqi aliens who were also planning to enter the United States and who also had been provided with Ecuadorian visas and airplane tickets to Quito, Ecuador.

47. On or about January 2002, defendants **ABU HARP** and **NANCY ZAIA** caused B-1 and B-2 to travel to Quito, Ecuador, en route to the United States.

48. On or about January 2002, defendant **NANCY ZAIA** and defendant **ABU HARP** caused B-1 and B-2 to remain staged in South America while persons both known and unknown to the Grand Jury attempted to smuggle B-1 and B-2 from South America into the United States.

Overt Acts Particularly Related to Aliens "C-1", "C-2"and "C-3"

49. In or about early 2001, defendant **NANCY ZAIA** contacted C-1 in Baghdad, Iraq, for the purpose of discussing C-1, C-2, and C-3's travel to the United States. Defendant **NANCY ZAIA** told C-1 that it would take four to six weeks for C-1, C-2, and C-3 to be brought to the

United States.

50. In or about early 2001, defendant **NANCY ZAIA** called C-1 in Baghdad, Iraq, and told C-1 that it would cost $6,500 per person to be brought into the United States.

51. In or about early 2001, defendant **NANCY ZAIA** collected a $9,500 down payment for bringing C-1, C-2, and C-3 to the United States.

52. In or about October 2001, defendant **NANCY ZAIA** instructed C-1, C-2, and C-3 to travel from Baghdad, Iraq, to Amman, Jordan, in preparation for their travel to the United States.

53. In or about October 2001, defendant **ABU HARP** met with C-1 in Amman, Jordan, and discussed the arrangements for bringing C-1, C-2, and C-3 from Amman, Jordan, to the United States.

54. In or about October 2001, defendant **ABU HARP** told C-1 that the price for bringing C-1, C-2, and C-3 to the United States had increased, and that C-1 needed to pay an additional $12,000.

55. In or about October 2001, defendant **NANCY ZAIA** also telephoned C-1 and told C-1 the same thing defendant **ABU HARP** told C-1: that C-1 needed to pay the defendants an additional $12,000 to get C-1, C-2, and C-3 into the United States.

56. In or about October 2001, in response to C-1's complaints about the increase in price, defendant **NANCY ZAIA** agreed to lower the extra payment from $12,000 to $9,000 for C-1, C-2, and C-3 together; with an additional $1,000 payable upon the aliens' arrival in the United States.

57. In or about late Fall or early Winter 2001, defendant **ABU HARP** collected C-1, C-2, and C-3's Iraqi passports; and collected the additional $9,000 in fees from C-1.

58. In or about late Fall or early Winter 2001, defendant **ABU HARP** returned the passports to C-1, C-2, and C-3, and provided them with airline tickets to Quito, Ecuador, and Ecuadoran tourist visas; which defendant **ABU HARP** represented were obtained through a bribe payment to an immigration official.

59. In or about late Fall or early Winter 2001, defendant **NANCY ZAIA** told C-1 that Ecuador was a transit point and that it was first necessary for C-1, C-2, and C-3 to travel to Ecuador before they continued on to the United States.

60. On or about January 5, 2002, while in the Middle East, defendants **ABU HARP** and **NANCY ZAIA** grouped C-1, C-2, and C-3 with other Iraqi aliens who were also planning to enter the United States and who also had been provided with Ecuadorian visas and airplane tickets to Quito, Ecuador.

61. On or about January 5, 2002, defendants **ABU HARP** and **NANCY ZAIA** caused C-1, C-2, and C-3 to travel to Quito, Ecuador, en route to the United States.

62. On or about January 9, 2002, defendant **NANCY ZAIA** and defendant **ABU HARP** caused C-1, C-2, and C-3 to remain staged in South America while persons both known and unknown to the Grand Jury attempted to smuggle E-1 and E-2 from South America into the United States.

Overt Acts Particularly Related to Aliens "D-1", "D-2" and "D-3"

63. In or about April or May 2001, in Michigan, defendant **NANCY ZAIA** told relatives of D-1 that she could provide D-1, D-2, and D-3 with visas to the United States and the visas would cost $5,000 per person.

64. In or about April or May 2001, defendant **NANCY ZAIA** caused defendant

NANCY ZAIA's daughter to meet with relatives of D-1 to accept $5,000 in payment to obtain visas for D-1 and D-2.

65. In or about May 2001, defendant **NANCY ZAIA** met with D-1 and D-2 in Amman, Jordan, where she asked D-1 and D-2 for an additional $3,000 in smuggling fees.

66. In or about May 2001, defendant **NANCY ZAIA** obtained D-1 and D-2's Iraqi passports for the stated purpose of obtaining visas at the United States Embassy.

67. In or about May 2001, defendant **NANCY ZAIA** instructed D-1 and D-2 to go to the SAUDI JORDAN TRAVEL AGENCY in Amman, Jordan, operated by a person known to the grand jury, to pick up D-1 and D-2's passports and visas .

68. In or about May 2001, at the SAUDI JORDAN TRAVEL AGENCY in Amman, Jordan, defendant **NANCY ZAIA** provided D-1 and D-2 airline tickets to Ecuador and returned D-1 and D-2's passports, which contained, not United States visas, but Ecuadoran visas.

69. In or about June 3, 2001, defendant **NANCY ZAIA** told D-1 and D-2 that their United States visas awaited them in Ecuador; and caused D-1, D-2 and D-3 to travel to Ecuador along with other Iraqi clients of defendant **NANCY ZAIA.**

70. In or about August or September 2001, defendant **NANCY ZAIA** traveled to Quito, Ecuador, where she assembled D-1, D-2, and other Iraqi migrants, and told them that for an additional fee of $4,500 per person, she would obtain European passports which would enable the migrants to enter the United States.

71. In or about September or October, 2001, defendant **NANCY ZAIA** telephoned D-1 and D-2 in Quito, Ecuador, to inform them that she would not transport them to the United States but that she would send other persons to transport them to the United States.

72. In or about September or October, 2001, defendant **NANCY ZAIA** and defendant **ABU HARP** caused D-1 and D-2 to remain staged in South America while persons both known and unknown to the Grand Jury attempted to smuggle D-1 and D-2 from South America into the United States.

Overt Acts Particularly Related to Aliens "E-1" and "E-2"

73. In or about the late Winter of 2001 or early Winter of 2002, in Detroit, Michigan, in the presence of coconspirator **BS**, defendant **NANCY ZAIA** told a relative of E-1 and E-2 that she could get E-1 and E-2 into the United States through "the church."

74. In or about the late Winter of 2001 or early Winter of 2002, in Detroit, Michigan, in the presence of coconspirator **BS** defendant **NANCY ZAIA** told the relative of E-1 and E-2 that it would cost $2500 per person to get E-1 and E-2 into the United States.

75. In or about the late Winter of 2001 or early Winter of 2002, in Detroit, Michigan, defendant **NANCY ZAIA** collected the payment of $5000 to get E-1 and E-2 into the United States.

76. In or about the late Winter of 2001 or early Winter of 2002, in Detroit, Michigan, defendant **NANCY ZAIA** caused defendant **NANCY ZAIA**'s daughter to meet with coconspirator **BS** to accept $9,600 in payment to obtain visas for E-1 and E-2.

77. In or about the Spring of 2002, in Amman, Jordan, defendant **NANCY ZAIA** and defendant **ABU HARP** provided Ecuadorian visas and airplane tickets to Ecuador to migrants E-1 and E-2.

78. In or about the Spring or Summer of 2002, in Amman, Jordan, defendant **NANCY ZAIA** and defendant **ABU HARP** grouped E-1 and E-2 with other Iraqi aliens who were also

planning to enter the United States and who also had been provided with Ecuadorian visas and airplane tickets to Quito, Ecuador.

79. In or about June, 2002, defendant **NANCY ZAIA** and defendant **ABU HARP** caused E-1 and E-2 to travel to Quito, Ecuador, en route to the United States.

80. In or about July 2002, defendant **NANCY ZAIA** and defendant **ABU HARP** caused E-1 and E-2 to remain staged in South America while defendant **CONSPIRATOR "F"** and persons unknown to the Grand Jury attempted to smuggle E-1 and E-2 from South America into the United States. While E-1 and E-2 were staged in South America, conspirator **BS** wired approximately $25,000 in smuggling fees to defendant **CONSPIRATOR "F,"** which fees included payment for transporting migrants E-1 and E-2 into the United States.

81. From on or about March 7, 2003, to on or about August 8, 2003, in a series of consensually monitored phone conversations with an undercover Government Agent who was posing as an alien smuggler, defendant **NANCY ZAIA**, defendant **ABU HARP**, and coconspirator **BS** arranged details of transporting E-1 and E-2 to the United States..

82. From on or about March 7, 2003, to on or about August 8, 2003, in a series of consensually monitored phone conversations with an undercover Government Agent who was posing as an alien smuggler, defendant **NANCY ZAIA**, defendant **ABU HARP**, and coconspirator **BS** arranged details of transporting E-1 and E-2 to the United States.

83. On or about March 7, 2003, during a consensually monitored telephone call, **ABU HARP** told the undercover Government Agent posing as an alien smuggler that he had a total of 19-21 people staged in Jordan waiting to be smuggled to the United States.

84. On or about March 7, 2003, during a consensually monitored telephone call, **NANCY ZAIA** told the undercover Government Agent posing as an alien smuggler that he should contact coconspirator **BS** to speak with her regarding the details of bringing the "merchandise" to the United States.

85. On or about June 23, 2003, during a consensually monitored telephone call, coconspirator **BS** told the undercover Government Agent to contact a certain group of Iraqis in Lima, Peru; telling the Government Agent there were two groups of Iraqis waiting to be smuggled to the United States. Coconspirator **BS** stated she was willing to travel to South America to make further arrangements to smuggle migrants to the United States.

86. On or about July 31, 2003, during a consensually monitored telephone call, defendant **NANCY ZAIA** told a confidential informant that he should make all the arrangements and discuss all the details regarding the upcoming smuggling of Iraqi migrants with coconspirator **BS**.

87. On or about July 31, 2003, during a consensually monitored telephone call, coconspirator **BS** agreed to meet the Government Agent in Washington, D.C. on August 7, 2003, in order to pick up E-1and E-2 and to pay $8,000 as smuggling fees.

88. On or about August 5, 2003, during a consensually monitored telephone call, coconspirator **BS** agreed to pay the Government Agent one-half of the money upon the delivery of migrants E-1 and E-2 in Washington, D.C., and agreed to pay the other one-half of the fee a week later.

89. On or about August 7, 2003, coconspirator **BS** drove a rental car from Sterling Heights, Michigan, to Washington, D.C., to meet the migrants E-1 and E-2 and to pay money to the

undercover Government Agent for E-1 and E-2's passage into the United States.

90. On or about August 7 through 9, 2003, defendants **NANCY ZAIA** , **ABU HARP**, coconspirator **BS** and other persons both known and unknown to the Grand Jury caused aliens E-1 and E-2 to be transported from Lima, Peru, through Dulles Airport in Virginia and then to Washington, D.C.

91. On or about August 8, 2003, coconspirator **BS** met with the undercover Government Agent in a hotel room in Washington, D.C., where she paid one-half of the smuggling fees.

92. On or about August 8, 2003, coconspirator **BS** transported the migrants from Washington, D.C. to the Sterling Heights, Michigan, area.

Overt Acts Particularly Related to Aliens "F-1", "F-2", "F-3" and "F-4"

93. On or about an unknown date in 2001, in Detroit, Michigan, defendant **CONSPIRATOR "G"** told the uncle of F-1 that he "had people" who could legally transport his young niece, F-1, from Amman, Jordan through South America into the United States.

94. On or about an unknown date in 2001 and 2002, in Detroit, Michigan, defendant **NANCY ZAIA** told the father of F-2, F-3 and F-4 that she could bring Iraqis to the United States by bringing them from Jordan to Mexico where a priest would bring them into the United States legally.

95. On or about an unknown date in 2001 or 2002, in Amman, Jordan, defendant **CONSPIRATOR "G"** told F-1 that for $5000 he could get her a tourist visa to Ecuador, where defendant **CONSPIRATOR "G"** had "friends" who could get F-1 to the United States.

96. Thereafter, on the same unknown date in 2001 or 2002, defendant **CONSPIRATOR "G"** caused F-1 to travel from Amman, Jordan, to Ecuador.

97. Thereafter, on or about an unknown date in 2001 or 2002, defendant **NANCY ZAIA** telephoned F-3 who had traveled to Amman, Jordan, with F-2 and F-4 after hearing what defendant **NANCY ZAIA** told their father. During this telephone call, defendant **NANCY ZAIA** told F-3 to gather his and F-2 and F-4's passports, photographs of each, and give them to a man named "Tam."

98. Thereafter, on or about an unknown date in 2002, "Tam" who is defendant **ABU HARP**, came to F-3's apartment in Amman, Jordan, and collected the passports and photographs, telling F-2, F-3, and F-4 that "he" had transported many people to the United States.

99. Thereafter, on or about February, 2002, one month after he had collected the passports, defendant **ABU HARP** came to F-3's apartment and demanded $10,500 . After F-3 refused to pay the money, defendant **ABU HARP** telephoned defendant **NANCY ZAIA** who convinced F-3 to pay defendant **ABU HARP** the $10,500.

100. Thereafter, on or about February, 2002, approximately 3 days after he had collected the $10,500, defendant **ABU HARP** telephoned F-3 and told F-3 that he and F-2 and F-4 could travel that day. When defendant **ABU HARP** arrived at F-3's apartment with passports and airline tickets, F-3 noticed that the passports he had provided defendant **ABU HARP** contained visas for Ecuador, not the promised Mexican visas.

101. Thereafter, in or about February, 2002, defendant **ABU HARP** caused F-2, F-3, and F-4 to travel from Amman, Jordan, to Eqypt, to Peru, and on to Ecuador.

102. Thereafter, approximately 18 days after arriving in Ecuador, defendant **NANCY ZAIA** told F-3 in a telephone call that she was exploring alternative routes to the United States.

Defendant **NANCY ZAIA** told F-3 that defendant **CONSPIRATOR "E"** would contact him, telling F-3 that "he," defendant **CONSPIRATOR "E,"** had transported many people to the United States.

103. On or about an unknown date in 2002, while telephoning from Peru, defendant **CONSPIRATOR "E"** told the uncle of F-1 that he had sent many people to the United States and that he could transport F-1 to the United States where she could obtain refugee status.

104. On or about an unknown date in 2002, persons both known and unknown to the Grand Jury caused aliens F-1 to be transported to Lima, Peru, where she was met and was grouped with migrants F-2, F-3, and F-4, who had also been transported to Lima, Peru.

105. On or about August 21, 2003, in a telephone call regarding aliens to be brought illegally to the United States, defendant **ABU HARP** told an undercover Government Agent posing as an alien smuggler that he (defendant **ABU HARP**) would have at least five aliens, and perhaps as many as ten aliens, ready at a time.

105. On or about August 27, 2003, during a consensually monitored telephone call, **NANCY ZAIA** told the undercover Government Agent that he should contact coconspirator **MM** to speak with him regarding the details of bringing F-1 and F-2 to the United States.

106. On or about September 3, 2003, during a consensually monitored telephone call, defendant **NANCY ZAIA** told the undercover Government Agent specifically which of the undocumented aliens then stationed in South America should be in the load of illegal aliens that were soon to be transported into the United States.

107. On or about September 12, 2003, defendants **NANCY ZAIA, ABU HARP,** coconspirator **MM** and other persons both known and unknown to the Grand Jury caused aliens F-1

and F-2 to be transported from Lima, Peru, through Dulles Airport in Virginia and then to Washington, D.C.

108. On or about September 13, 2003, in accordance with the arrangement made by the conspirators **NANCY ZAIA** and **ABU HARP**, coconspirator **MM** drove from Michigan to Washington, D.C., where he paid the undercover Government Agent a smuggling fee of $8,000 in United States currency.

109. On or about September 14, 2003, coconspirator **MM** departed the hotel with F-1 and F-2, delivered migrant F-1 to a family member in Washington, D.C., and drove with migrant F-2 from Washington, D.C., to Michigan.

Overt Acts Particularly Related to Aliens "G-1" and "G-2"

110. In or about the Spring of 2001, defendant **NANCY ZAIA** and defendant **ABU HARP** traveled to G-1's apartment in Amman, Jordan, for the purpose of discussing G-1's desire to travel to the United States. Defendant **NANCY ZAIA** told G-1 that she took people to the United States legally and that G-1 had to pay $4000.

111. In or about the Spring of 2001, defendant **NANCY ZAIA** instructed G-1 to come to defendant **NANCY ZAIA**'s "office" in Amman, Jordan, to pick up her visa, and to pay an additional $1500. The name of the "office" where G-1 met defendant **NANCY ZAIA** is the SAUDI JORDAN TRAVEL AGENCY.

112. In or about the Spring of 2001, defendant **NANCY ZAIA** and a person known to the Grand Jury collected G-1's Iraqi passport.

113. In or about the Spring of 2001, defendant **NANCY ZAIA** and a person known to the Grand Jury returned the passport to G-1, and provided her with an airline ticket to Quito, Ecuador,

and an Ecuadoran visa.

114. In or about the Spring of 2001, defendant **NANCY ZAIA** and defendant **ABU HARP** grouped G-1 with other Iraqi aliens who were also planning to enter the United States and who also had been provided with Ecuadorian visas and airplane tickets to Quito, Ecuador.

115. In or about June, 2001, defendant **NANCY ZAIA** and defendant **ABU HARP** caused G-1 to travel to Quito, Ecuador, en route to the United States.

116. In or about September 2001, defendant **NANCY ZAIA** traveled to Quito, Ecuador, where she met with migrants G-1 and other Iraqi migrants staged in Ecuador and asked migrant G-1 for an additional $1000.

117. In or about September or October, 2001, defendant **NANCY ZAIA** and defendant **ABU HARP** caused G-1 and G-2 to remain staged in South America while persons both known and unknown to the Grand Jury attempted to smuggle G-1 and G-2 from South America into the United States.

118. In or between the Fall of 2001 through the Summer of 2002, defendant **NANCY ZAIA** caused persons both known and unknown to the Grand Jury to contact and transport migrants G-1 and other Iraqi migrants through the mountains of Colombia where migrant G-1 and the other Iraqi migrants were robbed at gunpoint.

119. In or about the Spring or Summer of 2002, defendant **NANCY ZAIA** caused G-1 to remain staged in Colombia with no money due to having been robbed where G-1 was forced to eat grass and weeds to survive.

120. In or about the Fall of 2001 through 2002 , defendant **NANCY ZAIA** caused migrant G-1 to travel through Colombia, Brazil, and Peru in G-1's efforts to get into the United

States. When contacted by family members of G-1, defendant **CONSPIRATOR "G"** caused persons known to the Grand Jury to transport G-1 from Venezuela to Lima, Peru.

121. On or about an unknown day in 2002 or 2003, in Lima, Peru, defendant **CONSPIRATOR "E"** told migrant G-1 that he could get her to the United States for $2000, and defendant **CONSPIRATOR "E"** showed G-1 a bag of passports.

122. On or about an unknown day in 2002, defendant **NANCY ZAIA** contacted migrant G-2 and her mother in Amman, Jordan, for the purpose of discussing G-2 and her mother's desire to travel to the United States. Defendant **NANCY ZAIA** told G-2 that she took people to the United States legally and that G-2 and her mother had to pay $4000 per person.

123. On or about an unknown day in 2002, in Amman, Jordan, defendant **NANCY ZAIA** told migrant G-2 and her mother that defendant **NANCY ZAIA** would transport G-2 and her mother to Mexico, where defendant **CONSPIRATOR "F"** would get them into the United States through the church.

124. On or about an unknown day in the Spring of 2002, in Amman, Jordan, defendant **NANCY ZAIA** collected an additional $2000 from G-2 and her mother for a total payment of $10,000 to get G-2 and her mother into the United States.

125. On or about an unknown day in the Spring of 2002, in Amman, Jordan, defendant **ABU HARP** provided G-2 and her mother visas to Ecuador. When questioned about the visas to Ecuador instead of Mexico, defendant **NANCY ZAIA** said, "trust me. I know what I'm doing. ... I'll help you through the Church ... **[CONSPIRATOR "F"]**."

126. In or about the Spring of 2002, in Amman, Jordan, defendant **NANCY ZAIA** and defendant **ABU HARP** provided Ecuadorian visas and airplane tickets to Ecuador to migrant G-2..

127. In or about the Spring or Summer of 2002, in Amman, Jordan, defendant **NANCY ZAIA** and defendant **ABU HARP** grouped G-2 with other Iraqi aliens who were also planning to enter the United States and who also had been provided with Ecuadorian visas and airplane tickets to Quito, Ecuador.

128. In or about June, 2002, defendant **NANCY ZAIA** and defendant **ABU HARP** caused G-2 to travel to Quito, Ecuador, en route to the United States.

129. In or about July 2002, defendant **NANCY ZAIA** and defendant **ABU HARP** caused G-2 to remain staged in South America while persons both known and unknown to the Grand Jury attempted to smuggle G-2 from South America into the United States.

130. On or about an unknown day in 2002 or 2003, defendant **NANCY ZAIA** staged G-2 and her mother in South America after which the two migrants made contact with defendant **CONSPIRATOR "E"** who caused G-1 and her mother to contact defendant **CONSPIRATOR "F."**

131. On or about an unknown day in 2002 or 2003, defendant **NANCY ZAIA** and defendant **CONSPIRATOR "F"** had a telephone conversation in which they discussed transporting Iraqi migrants into the United States.

132. On or about an unknown day in 2002 or 2003, defendant **CONSPIRATOR "F"** collected $2000 from G-2 for payment for transporting G-2 and her mother into the United States.

133. On or about December 29, 2003, while discussing the then-upcoming February 2004 illegal smuggling of aliens into the United States, defendant **NANCY ZAIA** told the Government Agent posing as an alien smuggler that he should "shakedown" the next load of aliens, affirmatively asserting that the aliens would pay more money, if it were demanded of them.

134. On or about December 29, 2003, defendant **NANCY ZAIA** instructed the Government Agent that the money for the smuggling of the next load of illegal aliens into the United States should be paid directly to coconspirator **BS**.

135. On or about December 29, 2003, defendant **NANCY ZAIA** told the Government Agent that a particular Iraqi alien then in South America should be included in the then-approaching February 2004 smuggling of illegal aliens into the United States.

136. On or about February 8, 2004, defendant **NANCY ZAIA** instructed the undercover Government Agent to smuggle to the United States numerous Iraqi aliens whom she had previously promised to bring to the United States, but who, despite her promises, remained staged in South America, so that defendant **NANCY ZAIA** could more conveniently bring additional aliens from the Middle East to South America for illegal entry into the United States. Defendant **NANCY ZAIA** referred to the then-staged Iraqi aliens variously as "trash" and "garbage," or words to that effect.

137. On or about February 8, 2004, coconspirator **BS** told an undercover Government Agent that defendant **ABU HARP's** "next" shipment of aliens from the Middle East would consist of between 7 and 9 persons.

138. On or about February 8, 2004, coconspirator **BS** described to the undercover Government Agent how the smuggling fees for G-1 and G-2 were to be divided, saying among other things that defendant **NANCY ZAIA** was to receive $1,000 for smuggling G-1 and G-2 into the United States.

139. On or about February 9, 2004 and February 10, 2004, defendants **NANCY ZAIA, ABU HARP**, coconspirator **BS** and other persons both known and unknown to the Grand Jury

caused unauthorized aliens G-1 and G-2 to be transported from Lima, Peru, through Dulles Airport in Virginia and then to Washington, D.C.

140. On or about February 9, 2004, in accordance with their prior arrangement, defendant **BS** drove from Michigan to Washington, D.C., where she stayed overnight in a hotel.

141. On or about February 10, 2004, in accordance with their prior arrangement, coconspirator **BS**, in Washington, D.C., paid the undercover Government Agent posing as an alien smuggler a smuggling fee of $10,000 and, thereafter, took delivery of G-1 and G-2 and left the hotel with G-1 and G-2.

142. On or about February 10, 2004, coconspirator **BS** drove with G-1 and G-2 from Washington, D.C., to Michigan, where G-1 and G-2 were delivered for a fee to relatives.

Overt Acts Particularly Related to Alien "H-1"

143. In or about March or April of 2001, defendant **NANCY ZAIA** caused an advertisement to be placed in the Detroit, Michigan, area media stating that she could transport aliens into the United States, Canada, and Greece.

144. In or about March or April of 2001, while in Detroit, Michigan, defendant **NANCY ZAIA** obtained the telephone number in Jordan for migrant H-1 and collected $2000 from a friend of H-1 as a down payment for H-1's travel to the United States.

145. In or about the Spring of 2001, defendant **NANCY ZAIA** traveled from Detroit, Michigan, to Amman, Jordan, where she met with migrant H-1 and told him that she could get him into the United States "legally" for $5000.

146. In or about the Spring of 2001, in Amman, Jordan, defendant **NANCY ZAIA** and defendant **ABU HARP** gathered a group of migrants in their apartment where they collected money

from several of the migrants in the group as payment for their "legal" travel to the United States.

147. In or about the Spring of 2001, in Amman, Jordan, at a business called the SAUDI JORDAN TRAVEL AGENCY, in the presence of defendants **ABU HARP** and **NANCY ZAIA**, a person known to the Grand Jury who owned and operated the travel agency delivered to H-1 a visa and passport.

148. In or about the Spring of 2001, in Amman, Jordan, at a business called the SAUDI JORDAN TRAVEL AGENCY, defendant **NANCY ZAIA**, accepted $2500 in payment from H-1 for his visa and appeared to be accepting similar payments from a group of approximately 20 - 25 other migrants for travel to the United States.

149. In or about the Spring of 2001, in Amman, Jordan, defendant **NANCY ZAIA** and defendant **ABU HARP** caused a group of migrants, including migrant H-1, to travel from Jordan to Ecuador, through Turkey, South Africa, Argentina, and Peru.

150. In or about September or October, 2001, defendant **NANCY ZAIA** and defendant **ABU HARP** caused H-1 to remain staged in South America while persons both known and unknown to the Grand Jury attempted to smuggle H-1 from South America into the United States.

151. In or about late 2001 or early 2002, in Ecuador, defendant **CONSPIRATOR "E"** told H-1 that an associate of **CONSPIRATOR "E's"** known to the Grand Jury could get migrant H-1 to the United States. After transporting migrant H-1 and a group of other migrants from Ecuador to a different South American country (either Chile or Colombia), this person known to the Grand Jury sold H-1 an airline ticket to Miami, Florida, for $500.

152. In or about late 2001 or early 2002, in an unidentified South America country (either Chile or Colombia) the associate of defendant **CONSPIRATOR "E"** known to the Grand Jury

provided migrant H-1 with a German passport. This person known to the Grand Jury told migrant H-1 "we have all sorts of passports."

153. In or about late 2001 or early 2002, defendant **CONSPIRATOR "E"** and his associate known to the Grand Jury caused migrant H-1 to board an airplane for Miami, Florida, and both men instructed migrant H-1 to tear up the German passport while in flight to the United States, to flush it down the toilet of the aircraft, and, immediately on arrival in the United States, to request asylum.

Overt Acts Particularly Related to Aliens "I-1", "I-2", "I-3"," I-4", "I-5" and" I-6"

154. In or about early 2001, in Detroit, Michigan, defendant **NANCY ZAIA** caused an advertisement to be placed in Detroit, Michigan, area television and radio claiming that she could bring persons into the United States by utilizing defendant **CONSPIRATOR "F"**and others apparently connected to a church.

155. In or about early 2001, defendant **NANCY ZAIA** told a relative of I-1 that she could provide I-1; his wife, I-2; their two sons, I-3 and I-4, and two young nieces I-5 and I-6; with "papers" to enable them to enter Canada.

156. In or about early 2001, defendant **NANCY ZAIA** telephoned I-1 and the Mother of I-1 to discuss bringing her family members into the United States. During the conversation with the Mother of I-1, defendant **NANCY ZAIA** told the Mother of I-1 that she, **NANCY ZAIA**, desired to smuggle a baby boy into the United States without his parents, in order that she could sell the baby boy in the United States.

157. In or about early 2001, defendant **NANCY ZAIA** agreed to lower the smuggling fees for I-1; his wife, I-2; their two sons, I-3 and I-4, and two young nieces I-5 and I-6, if the Mother of

I-1 would assist defendant **NANCY ZAIA** in bringing the baby boy into the United States

158. In or about early 2001, defendant **NANCY ZAIA** instructed and caused the Mother of I-1 to meet with an Iraqi mid-wife and acquire a one day-old baby boy (Migrant J-1 below) from an Iraqi midwife to be sold for a sum of money in the United States.

159. In or about the Spring or Summer of 2001, in Amman, Jordan, after repeated attempts to bring the baby boy (Migrant J-1 below) into the United States were unsuccessful, defendant **NANCY ZAIA** instructed I-1 and his family to travel to Amman, Jordan, where defendant **NANCY ZAIA** showed the Mother of I-1 a passport and informed the Mother of I-1 that it would cost $5000 for similar passports for her six family members.

160. In or about the Summer of 2001, in Amman, Jordan, defendant **NANCY ZAIA** introduced defendant **ABU HARP** to the Mother of I-1 telling the Mother of I-1 that **ABU HARP** is her facilitator for getting aliens into the United States.

161. In or about the late Summer of 2001, in Amman, Jordan, after explaining that there was a problem with obtaining airlines tickets for the two young girls, I-5 and I-6, defendant **NANCY ZAIA** collected $18,000 to transport I-1; his wife, I-2; and their two sons, I-3 and I-4; to Ecuador on their way to the United States. Defendant **NANCY ZAIA** explained that once the migrants were in Ecuador, they would have to pay more money to get to the United States.

162. In or about the Summer of 2001, in Amman, Jordan, defendant **NANCY ZAIA** collected an additional $3000 for the airline tickets to transport the two girls, I-5 and I-6, to Ecuador on their way to the United States. Defendant **NANCY ZAIA** escorted the two young girls, flying with migrants I-5 and I-6 from Amman, Jordan, to Ecuador on their way to the United States.

163. In or about the Summer of 2001, in Amman, Jordan, defendant **NANCY ZAIA** and her conspirators collected approximately $25,000 in smuggling fees for bringing I-1; his wife, I-2; their two sons, I-3 and I-4, and two young nieces I-5 and I-6 to the United States.

Overt Acts Particularly Related to Alien "J-1"

164. In or about early 2001, in the Detroit, Michigan, area, defendant **NANCY ZAIA** requested that a woman known to the Grand Jury travel from Detroit, Michigan, to Iraq in order to pick up a baby boy and defendant **NANCY ZAIA** requested that this woman known to the Grand Jury pretend to be the mother of the baby boy (J-1) so that she could transport the baby boy (her pretend "son") to the United States for sale.

165. In or about early 2001, in the Detroit, Michigan, area, defendant **NANCY ZAIA** instructed the woman known to the Grand Jury to travel to Iraq and to obtain a false birth certificate indicating that the woman known to the Grand Jury was the mother of the baby boy (J-1) that was to be transported to the United States for sale.

166. In or about early 2001, in the Detroit, Michigan, area, defendant **NANCY ZAIA** provided a sum of money to the woman known to the Grand Jury to take to the Mother of I-1 for payment to the family of the baby boy (J-1) that was to be transported to the United States for sale.

167. In or about early 2001, in the Detroit, Michigan, area, defendant **NANCY ZAIA** caused the woman known to the Grand Jury to travel to Iraq to meet the Mother of I-1 so that they could jointly arrange to bring the baby boy (J-1) into the United States for sale.

168. In or about early 2001, when the attempt to obtain false Iraqi birth certificate failed, defendant **NANCY ZAIA** instructed the person known to the Grand Jury and the Mother of I-1 to go to the United States consulate located in Amman, Jordan, and deceive them by falsely posing as a

United States citizen who had given birth to the Iraqi baby boy (J-1) while on vacation in Iraq.

169. In or about early 2001, after the attempt to deceive the United States consulate located in Amman, Jordan, failed; defendant **NANCY ZAIA** instructed the Mother of I-1 to pretend as if Iraqi baby boy (J-1) was the son of I-1 and bring the Iraqi baby boy (J-1) to Amman, Jordan, so that he might be transported to Ecuador en route to the United States.

170. In or about the Summer of 2001, in Amman, Jordan, defendant **NANCY ZAIA** caused the Iraqi baby boy (J-1) to be transported to Ecuador along with I-1; his wife, I-2; and their two sons, I-3 and I-4; to Ecuador on their way to the United States. Defendant **NANCY ZAIA** explained that once the migrants were in Ecuador, they would have to pay more money to get to the United States.

Overt Acts Particularly Related to Aliens "K-1" and "K-2"

171. In or about February or March 2001, in Amman, Jordan, defendant **NANCY ZAIA** told K-1 that she could legally get K-1 and K-2 to the United States and that K-1 and K-2 would fly direct from the airport in Amman, Jordan, to an airport in the United States.

172. In or about February or March 2001, in Amman, Jordan, defendant **NANCY ZAIA** told K-1 that immigration into the United States had become more difficult and that K-1 and K-2 would need to fly through Ecuador in order to enter the United States.

173. In or about late May 2001, in Amman, Jordan, defendant **NANCY ZAIA** grouped K-1 and K-2 with other Iraqi aliens who were also planning to enter the United States and who had been provided with Ecuadorian visas and airplane tickets to Ecuador.

174. In or about May 2001, in Amman, Jordan, defendant **NANCY ZAIA**, caused a group of migrants, including migrants K-1 and K-2, to travel from Jordan to Quito, Ecuador; through

Turkey, South Africa, Argentina, and Peru.

175. In or about the Summer of 2001, in Quito, Ecuador, after being told that K-1 was robbed while staged in Ecuador by defendant **NANCY ZAIA**, defendant **NANCY ZAIA** stated that it was K-1's fault that she was robbed as South America had some very dangerous areas.

176. In or about September 2001, defendant **NANCY ZAIA** traveled to Quito, Ecuador, where she met with migrants K-1 and K-2 and asked migrants K-1 and K-2 for an additional $2000 each, saying this was due to the tighter United States immigration controls in place after the 9/11 attacks.

177. In or about September 2001, after being paid the additional $2000 each by migrants K-1 and K-2, defendant **NANCY ZAIA** told migrants K-1 and K-2 that she would send an unidentified person to meet them who was to take migrants K-1 and K-2 to the United States.

178. In or about the Fall of 2001, migrants K-1 and K-2 became very fearful due to their being females staged in South America where they could not speak the language, and questioned defendant **NANCY ZAIA** regarding who would transport them to the United States; to which defendant **NANCY ZAIA** responded "don't ask, it's a secret."

179. In or about September or October, 2001, defendant **NANCY ZAIA** and defendant **ABU HARP** caused K-1 and K-2 to remain staged in South America while persons both known and unknown to the Grand Jury attempted to smuggle K-1 and K-2 from South America into the United States.

180. In or about the Fall of 2001 or Winter of 2002, defendant **NANCY ZAIA** caused persons both known and unknown to the Grand Jury to contact and transport migrants K-1 and K-2 and other Iraqi migrants through the mountains of Colombia where migrants K-1 and K-2 and other

Iraqi migrants were robbed at gunpoint.

Overt Acts Particularly Related to Alien "L-1"

181. In or about the late Winter of 2000 or early Winter of 2001 , defendant **NANCY ZAIA** told the father of L-1 that she and "the church" had permanent authority from the Canadian government to resettle Iraqis to Canada, where they would eventually be legally admitted into the United States.

182. In or about the late Winter of 2000 or early Winter of 2001, defendant **NANCY ZAIA** told the father of L-1 that she would charged $5000 to get his son into the United States.

183. In or about the late Winter of 2000 or early Winter of 2001, defendant **NANCY ZAIA** collected the payment of $1500 to get L-1 into the United States.

184. In or about the late Winter of 2000 or early Winter of 2001, defendant **NANCY ZAIA** telephoned the father of L-1 and arranged a meeting with the father of L-1 where she accepted an additional $1500 to transport L-1 to Canada en route to the United States.

185. In or about the Spring or Summer of 2001, defendant **NANCY ZAIA** caused defendant **NANCY ZAIA**'s daughter to meet with the father of L-1 in Detroit, Michigan, in order to accept an additional payment of $4000 smuggling fees for bringing L-1 into the United States.

186. In or about the Spring or Summer of 2001, defendant **NANCY ZAIA** and defendant **ABU HARP** gathered a group of migrants, including L-1, in their apartment where they collected money from several of the migrants in the group as payment for their "legal" travel to the United States.

187. In or about the Spring or Summer of 2001, in Amman, Jordan, defendant **NANCY ZAIA** and defendant **ABU HARP** gathered a group of migrants, including L-1, in their apartment

where they collected money from several of the migrants in the group as payment for their "legal" travel to the United States.

188. In or about the Spring or Summer of 2001, in Amman, Jordan, at a business called the SAUDI JORDAN TRAVEL AGENCY, in the presence of defendants **ABU HARP** and **NANCY ZAIA**, a person known to the Grand Jury who owned and operated the travel agency delivered to L-1 a visa and passport.

189. In or about the Spring or Summer of 2001, in Amman, Jordan, at a business called the SAUDI JORDAN TRAVEL AGENCY, defendant **NANCY ZAIA**, accepted payments from Iraqi migrants who were to travel with L-1 to the United States.

190. In or about May 2001, in Amman, Jordan, defendant **NANCY ZAIA** and defendant **ABU HARP** caused a group of migrants, including migrant L-1, to travel from Jordan to Ecuador, through Turkey, South Africa, Argentina, and Peru.

191. In or about September or October, 2001, defendant **NANCY ZAIA** and defendant **ABU HARP** caused L-1 to remain staged in South America while persons both known and unknown to the Grand Jury attempted to smuggle L-1 from South America into the United States.

192. In or about the late Fall of 2001, defendant **NANCY ZAIA** had a meeting with L-1 in Quito, Ecuador, during which defendant **NANCY ZAIA** told L-1 that she could not get him to the United States or Canada, saying to L-1 "I am done with you."

Overt Acts Particularly Related to a Then Planned August 2004
Illegal Transportation
of Aliens to the United States

193. In or about early June, 2004, defendant **ABU HARP** placed a telephone call to an undercover Government Agent to arrange for the fee-based illegal smuggling of 9 Palestinians and

Jordanians into the United States.

194. In or about early June, 2004, defendant **ABU HARP** sent or caused to be sent over the internet to an undercover Government Agent scanned images of the Palestinians' and Jordanians' biographical data.

195. In or about early June, 2004, defendant **ABU HARP** and defendant **NANCY ZAIA** obtained a transit visa and successfully arranged the transit of a Jordanian male national from Jordan through Spain to Peru.

196. In or about early June, 2004, defendant **ABU HARP** and defendant **NANCY ZAIA** solicited an undercover Government Agent, for a fee, to smuggle the Jordanian national illegally into the United States.

197. Thereafter, in or about early June, 2004, defendant **ABU HARP** and defendant **NANCY ZAIA** obtained a transit visa and successfully arranged the transit of a second Jordanian male national from Jordan through Spain to Peru.

198. In or about early June, 2004, defendant **ABU HARP** and defendant **NANCY ZAIA** solicited an undercover Government Agent, for a fee, to smuggle this second Jordanian national illegally into the United States.

199. In or about early June, 2004, defendant **ABU HARP** traveled from Jordan to Peru, to generally oversee the conspirators' illegal alien smuggling endeavors and to coordinate the illegal smuggling arrangements for the two Jordanian male nationals and for the other specific group of Middle Eastern nationals whom defendant **NANCY ZAIA** was actively preparing to bring from Jordan to Peru.

(Conspiracy To Commit Offenses Against the United States, in violation of Title 18, United States Code, Section 371).

COUNTS TWO THROUGH SEVEN

On or about the following dates, in the District of Colombia, Jordan, Ecuador, Peru, Colombia, and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendants **NEERAN HAKIM ZAIA, also known as "Nancy," Neeran Hanna, Neeran Hindo, and Niehran Zai Al-Hakeem ("NANCY ZAIA"), THAER OMRAN ISMAIL ASAIFI, also known as "Abu Harp," "Tam," Mureb al Shurafti, and "Sakr" ("ABU HARP"), CONSPIRATOR "E," CONSPIRATOR "F,"** and **CONSPIRATOR "G,"** for the purpose of commercial advantage and private financial gain, did knowingly bring and attempt to bring the following aliens to the United States, knowing and in reckless disregard of the fact that the aliens had not received prior official authorization to come to, enter, and reside in the United States, and that such coming to, entry, and residence in the United States was or would be in violation of law.

COUNT	ALIEN	DATES
2	F-1	Between the Spring of 2001 and September 12-13, 2003
3	F-2	Between the Spring of 2001 and September 12-13, 2003
4	F-3	Between the Spring of 2001 and 2002
5	F-4	Between the Spring of 2001 and 2002

6	G-1	Between the Spring of 2001 and February 10, 2004
7	G-2	Between the Spring of 2001 and February 10, 2004

(**Bringing Unauthorized Aliens to the United States for Commercial Advantage or Private Financial Gain,** in violation of 8 U.S.C. § 1324 (a)(2)(B)(ii); **Aiding and Abetting; Causing an Act to be Done**, in violation of 18 U.S.C. §§ 2(a) and 2(b).)

COUNT EIGHT

On or about March, 2001, through an unknown date in 2002, in the District of Colombia, Jordan, Ecuador, Peru, Colombia, and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendants **NEERAN HAKIM ZAIA, also known as "Nancy," Neeran Hanna, Neeran Hindo, and Niehran Zai Al-Hakeem ("NANCY ZAIA"); THAER OMRAN ISMAIL ASAIFI, also known as "Abu Harp," "Tam," Mureb al Shurafti, and "Sakr" ("ABU HARP")**; and **CONSPIRATOR "E,"** for the purpose of commercial advantage and private financial gain, did knowingly bring and attempt to bring the alien H-1 to the United States, knowing and in reckless disregard of the fact that the alien had not received prior official authorization to come to, enter, and reside in the United States, and that such coming to, entry, and residence in the United States was or would be in violation of law.

(**Bringing Unauthorized Aliens to the United States for Commercial Advantage or Private Financial Gain,** in violation of 8 U.S.C. § 1324 (a)(2)(B)(ii); **Aiding and Abetting; Causing an Act to be Done**, in violation of 18 U.S.C. §§ 2(a) and 2(b).)

COUNTS NINE THROUGH TWENTY-THREE

On or about and between the following dates, in the District of Colombia, Jordan, Ecuador, Peru, Colombia, and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendants **NEERAN HAKIM ZAIA, also known as "Nancy," Neeran Hanna, Neeran Hindo, and Niehran Zai Al-Hakeem ("NANCY ZAIA")**, and **THAER OMRAN ISMAIL ASAIFI, also known as "Abu Harp," "Tam," Mureb al Shurafti, and "Sakr" ("ABU HARP")**, for the purpose of commercial advantage and private financial gain, did knowingly bring and attempt to bring the following aliens to the United States, knowing and in reckless disregard of the fact that the aliens had not received prior official authorization to come to, enter, and reside in the United States, and that such coming to, entry, and residence in the United States was or would be in violation of law.

COUNT	ALIEN	DATES
9	A-1	Early Winter 2001 - February, 2002
10	A-2	Early Winter 2001 - February, 2002
11	B-1	August, 2000 - February, 2002
12	B-2	August, 2000 - February, 2002
13	C-1	Early, 2001 - February, 2002
14	C-2	Early, 2001 - February, 2002
15	C-3	Early, 2001 - February, 2002
16	D-1	May, 2001
17	D-2	May, 2001

18	D-3	May, 2001
19	E-1	August 7-8, 2003
20	E-2	August 7-8, 2003
21	K-1	March, 2001 - Winter, 2002
22	K-2	March, 2001 - Winter, 2002
23	L-1	Early 2001 - May 2001

(**Bringing Unauthorized Aliens to the United States for Commercial Advantage or Private Financial Gain,** in violation of 8 U.S.C. § 1324 (a)(2)(B)(ii); **Aiding and Abetting; Causing an Act to be Done,** in violation of 18 U.S.C. §§ 2(a) and 2(b).)

COUNTS TWENTY-FOUR THROUGH THIRTY

On or about and between the following dates, in the District of Colombia, Jordan, Ecuador, Peru, Colombia, and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendants **NEERAN HAKIM ZAIA, also known as "Nancy," Neeran Hanna, Neeran Hindo, and Niehran Zai Al-Hakeem ("NANCY ZAIA"); THAER OMRAN ISMAIL ASAIFI, also known as "Abu Harp," "Tam," Mureb al Shurafti, and "Sakr" ("ABU HARP");** and **CONSPIRATOR "F,"** for the purpose of commercial advantage and private financial gain, did knowingly bring and attempt to bring the following aliens to the United States, knowing and in reckless disregard of the fact that the aliens had not received prior official authorization to come to, enter, and reside in the United States, and that such coming to, entry, and residence in the United States was or would be in violation of law.

COUNT	ALIEN	DATES
24	I-1	Early 2001 through August 2001
25	I-2	Early 2001 through August 2001
26	I-3	Early 2001 through August 2001
27	I-4	Early 2001 through August 2001
28	I-5	Early 2001 through August 2001
29	I-6	Early 2001 through August 2001
30	J-1	Early 2001 through September 2001

(**Bringing Unauthorized Aliens to the United States for Commercial Advantage or Private Financial Gain,** in violation of 8 U.S.C. § 1324 (a)(2)(B)(ii); **Aiding and Abetting; Causing an Act to be Done,** in violation of 18 U.S.C. §§ 2(a) and 2(b).)

COUNT THIRTY-ONE

In or about May 2001, in the District of Colombia, Jordan, Ecuador, Peru, Colombia, and elsewhere, in the extraterritorial jurisdiction of the United States, and pursuant to Title 18, United States Code, Section 3238, within the venue of the United States District Court for the District of Columbia, the defendant **NEERAN HAKIM ZAIA, also known as "Nancy," Neeran Hanna, Neeran Hindo, and Niehran Zai Al-Hakeem ("NANCY ZAIA"),** did knowingly connive and conspire with **THAER OMRAN ISMAIL ASAIFI, also known as "Abu Harp," "Tam," Mureb al Shurafti, and "Sakr" ("ABU HARP")** to allow, procure, and permit alien L-1, who was inadmissable under Section 1182(a)(2) of Title 8 of the United States Code for having been convicted of an aggravated felony, to enter the United States.

(**Aiding or Abetting Certain Aliens to Enter the United States,** in violation of 8 U.S.C. § 1327; **Aiding and Abetting; Causing an Act to be Done,** in violation of 18 U.S.C. §§ 2(a)

and 2(b).)

COUNT THIRTY-TWO

In or between an unknown date in February, 2005 and an unknown date in April, 2005, in the District of Colombia, the defendants **NEERAN HAKIM ZAIA, also known as "Nancy," Neeran Hanna, Neeran Hindo, and Niehran Zai Al-Hakeem ("NANCY ZAIA"),** and **THAER OMRAN ISMAIL ASAIFI, also known as "Abu Harp," "Tam," Mureb al Shurafti, and "Sakr" ("ABU HARP"),** did, while aiding and abetting one another, knowingly attempt to corruptly persuade a person, whose identity is known to the Grand Jury, with intent to influence their testimony in an official proceeding, that is, the federal grand jury sitting in the District of the District of Colombia, investigating, among other things, possible federal criminal alien smuggling violations occurring between the Middle East and South America, and between South America and the United States.

Tampering withe a Witness by Misleading Conduct, in violation of 18 U.S.C. 1512(b)(1); **Aiding and Abetting; Causing an Act to be Done**, in violation of 18 U.S.C. §§ 2(a) and 2(b).)

A TRUE BILL

/ s /

FOREPERSON

/ s /

Attorney of the United States in
and for the District of Colombia